

EXHIBIT MM

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION

CARYN DEVINS STRICKLAND,

Plaintiff,

v. Civil No.: 1:20-cv-00066-WGY

UNITED STATES, et al.,

Defendants.

VIDEOTAPED

DEPOSITION OF: ANTHONY MARTINEZ

TAKEN: By Counsel for Plaintiff

DATE: April 28, 2023

TIME: 9:00 a.m. - 5:41 p.m.

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I N D E X

	PAGE
Examination by Ms. Gersen	5
Examination by Ms. Westmoreland	282
Examination by Ms. Gersen	284
Certificate of Oath	286
Certificate of Reporter	287
Signature page/errata sheet	288

INDEX OF EXHIBITS

NO.	DESCRIPTION	PAGE
56	Offer Letter	72
57	Page from Martinez Declaration	77
59	05.18.2018 E-mail from JP to Caryn	113
60	Text Messages	127
58	Meeting with Caryn Devins	136
61	E-mail Re: Watt tomorrow	139
62	07.05.2018 Significant Event Log	152
63	07.08.23 E-mail Caryn Mentoring JP Davis to: W Kelly Johnson	160
64	07.20.2018 E-mail Research & Writing Support	170
65	Declaration of Anthony Martinez	183
66	08.10.2018 E-mail Agreement from Yesterday's Meeting	194
67	08.13.2018 E-mail Re: Personnel Manual	202

INDEX OF EXHIBITS (Continued)		
NO.	DESCRIPTION	PAGE
2	08.14.2018 E-mail Re: Fw: Confidential - Requesting Heather Beam	204
3	08.15.2018 E-mail Fwd: Confidential - Personnel Matter	217
68	08.17.2018 E-mail Re: Agreement From Yesterday's Meeting	229
69	12.04.2018 Significant Event Log	246
70	02.12.2019 E-mail FW: Investigation Resolution/Procedure	253
71	05.28.2019 E-mail Confidential	263

1 with the EDR plan in the Fourth Circuit?

2 Q. Yes, I am asking that.

3 A. I was not familiar with it when I came on
4 board as the defender in 2017.

5 Q. So was the first training you received on
6 EDR in 2018?

7 A. The first training? The one I attended,
8 2018.

9 Q. 2018, right.

10 A. Yes, yes.

11 Q. So I'm curious about the different
12 accomplishments during your tenure as a federal
13 public defender. I know that creating a federal
14 agency was one that you testified to already. Did
15 you create the capital habeas unit at the FDO?

16 A. Yes, ma'am.

17 Q. That's a big accomplishment; is that right?

18 A. Yes, ma'am. I considered it an
19 accomplishment.

20 Q. Can you tell me about what the capital
21 habeas unit was?

22 A. Is, it's still in existence.

23 Q. Yes, is, yes.

24 A. The capital habeas unit, we represent --
25 the capital habeas unit represents individuals that

1 of your role at the FDO?

2 A. Guidance, I would seek guidance from him,
3 and directives --

4 Q. Did you have -- did you have a supervisor?

5 A. My supervisor is Chief Judge Gregory.

6 Q. Your supervisor was Chief Judge Gregory?

7 A. Yes, as far as I was concerned, my
8 supervisor was Chief Judge Gregory.

9 MS. GERSEN: Okay. So it's 10:30, so why
10 don't we take a break.

11 THE WITNESS: Okay.

12 MS. GERSEN: Thank you so much.

13 MS. WESTMORELAND: Do you know how much
14 time we've been on the record?

15 THE COURT REPORTER: It's been from 9:20
16 until 10:30.

17 THE VIDEOGRAPHER: It's 10:33 and we're off
18 the record.

19 (Recess from 10:33 a.m. to 10:42 a.m.)

20 THE VIDEOGRAPHER: 10:42, Eastern Standard
21 Time. We're back on the record.

22 BY MS. GERSEN:

23 Q. Okay. Thank you again for all your
24 explanations. So I'm going to ask you some questions
25 now about Caryn Strickland and your first impressions

1 about her. So you said that you were involved in her
2 hiring.

3 A. I was involved from a distance in her
4 interview.

5 Q. Okay. Can you tell us about that
6 interview, as in who was there?

7 A. I can only tell you that I was in my
8 Chattanooga office, because I was still working for
9 the Eastern District of Tennessee at the time of her
10 interview. I Skyped into the interview. I don't
11 recall, to be honest, who was at the interview other
12 than Ross Richardson. That's all.

13 Q. Was that the first time you met her?

14 A. Yes.

15 Q. As in the first time you met Caryn
16 Strickland?

17 A. Yes.

18 Q. And did you participate in the decision to
19 hire her?

20 A. No, that was decided by Ross. She did -- I
21 should qualify that. So Ross did ask me, "Are you
22 good if we were to hire her?"

23 And I said, "Yes, I am good. She appears
24 to be qualified, well-qualified for this position."

25 Q. So what did you think of Caryn at the time?

1 A. I mean, I didn't know her. She was a
2 qualified individual. That's all I knew.

3 (Phone rings.)

4 Q. Did you think she was the best candidate
5 for the position?

6 A. You know, I would imagine so; I don't
7 recall. You know, reflecting back, I can't tell you
8 how she paired up with the other candidates, but I
9 know she came qualified and she came highly referred
10 from the AO, I believe Cait Clarke. I just recall
11 some correspondence from Cait Clarke saying she would
12 be a good candidate for the office, is my
13 recollection.

14 Q. So in your -- in the declaration that you
15 provided for this litigation, you said that you
16 agreed with others that she was the best candidate
17 for the position. I'm quoting, "the best candidate
18 for the position."

19 Do you think that was a true statement of
20 what you thought?

21 A. Yes.

22 Q. And did you think that, even though she was
23 not coming in with any trial experience?

24 A. Well, she was going to start as a research
25 and writing specialist. So that -- you start -- you

1 know, you're limited in what you can do as a research
2 and writing specialist. You're not going to be going
3 to trial, so she would be -- and my understanding is
4 that, at that time, the research and writing
5 specialist would support the trial team and the
6 appellate team, so --

7 Q. And to your knowledge, did other attorneys
8 at the FDO come in without trial experience into the
9 research and writing position?

10 A. I'm sorry, can you repeat that question?

11 Q. To your knowledge, did other attorneys at
12 the FDO come in without trial experience?

13 A. No.

14 Q. They generally had trial experience when
15 they were hired?

16 A. Yes.

17 Q. What about attorneys designated as research
18 and writing specialists?

19 A. That wouldn't be technically a requirement
20 for that position.

21 Q. So it was -- to your knowledge, there were
22 other attorneys who were coming in as research and
23 writing specialists without trial experience?

24 A. I can't -- I don't recall any other
25 research and writing specialists that came in.

1 Q. Right. But in general, you don't consider
2 it a problem to hire someone without any trial
3 experience as a research and writing specialist?

4 A. I mean, it's preferred that they have trial
5 experience; and generally, you know, it's been a
6 practice of federal defender offices to have people
7 come in with trial experience, but specifically for
8 an R&W position, it doesn't necessarily have to be
9 required.

10 Q. Right. Earlier you said that you had
11 started in a position before becoming an assistant
12 federal defender. Did you say that it was a
13 paralegal position?

14 A. Correct.

15 Q. And would that have been similar to a
16 research and writing specialist?

17 A. Somewhat similar.

18 Q. Somewhat similar?

19 A. Yes.

20 Q. With the idea that you would transition to
21 an assistant federal --

22 A. Correct.

23 Q. Right. So Caryn Strickland started working
24 at the FDO on the same day as you, August 21st, 2017?

25 A. That's my recollection.

1 Q. Okay. Now that the -- do you call it R&W,
2 or do you call it "RW"? How do you --

3 A. R&W.

4 Q. You say R&W?

5 A. For short.

6 Q. You just say R&W?

7 A. R&W, or R&Ws.

8 Q. So can you tell me the difference between
9 the responsibilities of an R&W and an AFPD? Do they
10 have different job duties, first of all?

11 A. Yes, basically. An R&W cannot be the
12 attorney of record. Only an AFPD can be the attorney
13 of record. An R&W does not necessarily have their
14 own cases as a result, but they do function as
15 attorneys. They're doing research and writing.
16 They're doing -- they're drafting motions for the
17 AFPDs, but they're not actually, you know, tasked
18 with actually arguing the motion in court. That
19 would be up to the AFPD.

20 Now, an AFPD can allow a research and
21 writing specialist to argue the case at a motion, but
22 it would be -- it would have to be under the
23 supervision of an AFPD. An AFPD doesn't have to seek
24 permission. AFPD is tasked with the responsibility
25 of that's your case, you do the research and writing,

1 you file the motion, you do the argument, you do that
2 the trial, you take the plea, you do everything.
3 Research and writing specialists cannot do that.
4 Their tasks are limited.

5 Q. So let me just make sure I understand. So
6 R&Ws cannot have their own cases?

7 A. Correct.

8 Q. And can they represent clients in court?

9 A. No.

10 Q. Whereas AFPDs can represent clients in
11 court?

12 A. Correct.

13 Q. And they can have their own cases?

14 A. Correct.

15 Q. What was your expectation when Caryn was
16 hired about when she would be moved from an R&W to an
17 AFPD?

18 A. I had no expectation.

19 Q. You had no expectation at all?

20 A. Correct.

21 Q. So as far as you were concerned, she could
22 stay as an R&W indefinitely?

23 A. Anybody could.

24 Q. Anybody could.

25 A. Yes, ma'am.

1 MS. GERSEN: Okay. Can I have Tab 3,
2 please. Actually, no, I made a mistake. It's
3 Tab 2. We're going to mark this as Exhibit 56.

4 (Exhibit 56 was marked for identification.)

5 Q. So I'm handing you what we've marked as
6 Exhibit 56, and this is the offer letter that
7 Caryn Strickland received when she received the offer
8 for her job.

9 Does this show that she was hired as an
10 R&W?

11 A. Can I read this real quick?

12 Q. Of course.

13 A. Okay.

14 Q. There is also an e-mail on the next page,
15 if you'd like to read that.

16 A. Okay.

17 Q. Okay. Does this letter accord with your
18 understanding of the expectations for Caryn's
19 advancement from R&W to an AFPD?

20 A. I had no expectations. I was not involved
21 in this discussion, nor did I speak to Ross Richardson
22 about this. I had no expectations.

23 Q. Right. So what do you think that
24 Ross Richardson was telling Caryn to expect?

25 MS. SPAINHOUR: Object to the form.

1 BY MS. GERSEN:

2 Q. Go ahead.

3 A. I mean, I'm just going to read it with the
4 expectation, "We would look to move you to a
5 Assistant Federal Defender position pretty soon
6 thereafter."

7 Q. So she was told that she'd move to an AFPD
8 position "pretty soon thereafter."

9 MS. SPAINHOUR: Object to the form.

10 MS. GERSEN: I had no -- I did not ask my
11 question.

12 MS. SPAINHOUR: Okay.

13 BY MS. GERSEN:

14 Q. So what do you think "pretty soon
15 thereafter" means if a supervisor says that to a
16 hiring -- someone they're hiring?

17 A. I have no idea.

18 Q. Have you ever hired someone on the
19 expectation that they would be moved to an AFPD at
20 some future time?

21 A. Never, no.

22 Q. You never have?

23 A. Not with the expectation, no.

24 Q. So is it fair to say that this is a letter
25 that does not reflect something you would write to

1 someone you're hiring?

2 A. Probably not, correct.

3 Q. And why is that?

4 A. There is an expectation that -- written in
5 there that the person would be an assistant federal
6 defender.

7 Q. And that, you wouldn't want to say that,
8 why?

9 A. I don't know how this person is going to
10 develop. If you hire them as a research and writing
11 specialist, one thing I want to know is, how do they
12 get along with other people in the office; what is
13 their writing ability; what is their research
14 ability; what is their advocacy ability; how do they
15 get along with clients; will they be able to get
16 along with judges; will they be able to get along
17 with AUSAs? So there's so many factors before
18 somebody -- before I would agree a research and
19 writing specialist would come to just say, Oh, yeah,
20 you know, no.

21 Q. So is it fair to say you disagree with that
22 expectation created in the words "pretty soon
23 thereafter"?

24 MS. SPAINHOUR: Object to the form.

25 A. I don't understand the question about I

1 disagree. This form is the first time I'm seeing
2 this e-mail. I've never seen this before.

3 Q. I understand that.

4 A. This is an e-mail from Ross Richardson that
5 I have no idea what her thoughts were about this,
6 expectations, she never talked about it. So I want
7 to be -- you're asking me if I disagree with it, I
8 can't answer that question because I don't know what
9 her expectation was. I don't know what was
10 discussed.

11 Q. Right. So is it fair to say she --
12 whatever her expectation was in using the words
13 "pretty soon thereafter," which you don't know you
14 said, you would not have said -- you would not have
15 said the words -- if you were writing this letter to
16 Caryn when you hired her, you would not have said --
17 used the words that she used here. Namely, "with the
18 expectation that you will transition to an Assistant
19 Federal -- Assistant Defender Position," you would
20 not have used those words?

21 A. I'm not going to say never. I'm not going
22 to say never. I don't know the circumstances.

23 Q. Yes.

24 A. I don't know what Ross discussed with her.
25 I don't know what Ross saw in her. I was not

1 involved with this; so I can't, I can't answer that
2 question. I'm not going to say never.

3 Q. Right. Right. What you knew about
4 Caryn's, you said qualifications and credentials, at
5 the time would not have caused you to write such a
6 letter --

7 MS. SPAINHOUR: Object to the form.

8 BY MS. GERSEN:

9 Q. -- about expectations?

10 MS. SPAINHOUR: Object to the form.

11 A. I don't know what else Ross saw in Caryn
12 or the discussion with Ross or the reasons why Ross,
13 I cannot; I would be speculating.

14 Q. Uh-huh. Yeah. So you did not share the
15 expectation that she would move, she would transition
16 to an assistant federal defender position?

17 A. I was not the one that hired her --

18 Q. I understand. Right.

19 A. -- technically. Yeah, this is Ross
20 Richardson's e-mail.

21 Q. That's right.

22 A. I had no objection. I told Ms. Richardson
23 I had no objection to Ross hiring her, Ms. Strickland,
24 that's all I can say. I'm not involved in
25 expectations, or did I have an expectation, I'm --

1 when this happened, I wasn't a defender. I was still
2 awaiting my appointment.

3 Q. So you had no expectations about that?

4 A. Correct. Correct.

5 Q. Did Ms. Strickland ever show you this
6 letter or the e-mail on the next page about her --
7 about her expectations?

8 A. I'm seeing this e-mail that you showed me
9 on exhibit, what is it, on this exhibit right now.
10 The e-mail on the back, I'm seeing that e-mail for
11 the first time. I didn't even know this existed.

12 MS. GERSEN: Can I have tab -- I'm looking
13 for the declaration, please.

14 MR. GERSEN: I think it's Tab 1.

15 MS. GERSEN: Tab 1, okay. Actually, can I
16 have the full declaration, please.

17 A. I'm sorry, ma'am, do you want this back, or
18 do you want me to hold on to this?

19 BY MS. GERSEN:

20 Q. You can hold on to it in case we come back
21 to it later. It's better if you just hold on.

22 A. Okay.

23 THE COURT REPORTER: Which exhibit is this?

24 MS. GERSEN: This is Exhibit 57.

25 (Exhibit 57 was marked for identification.)

1 BY MS. GERSEN:

2 Q. I'm handing you now Exhibit 57. Which is a
3 page from your declaration that you filed in this
4 case.

5 A. Uh-huh.

6 Q. And I would like to point you to
7 paragraph 9 of your declaration.

8 A. Uh-huh.

9 Q. Could you, just for the record, read it out
10 loud.

11 A. Paragraph 9 states, "Plaintiff was to start
12 work between July 15 and August 15, 2017.
13 Plaintiff's salary as a Research & Writing specialist
14 was set at \$101,929.00 per year, according to the
15 General Schedule, ('GS') 14, Step 1, with the
16 expectation that she would 'transition to an
17 assistant federal defender' at an unspecified time in
18 the future."

19 Q. Yeah. So what did you mean in this
20 declaration when you said, "with the expectation that
21 she would 'transition to an assistant federal
22 defender' at an unspecified time in the future"?

23 A. What was written in the letter, in the top
24 letter, on March 24th.

25 Q. Can you explain what you meant?

1 A. I'm not understanding. I'm not
2 understanding the question.

3 Q. Okay. You're saying -- are you saying that
4 your declaration was consistent with what was
5 expressed in the letter that Caryn received upon
6 receiving her job offer?

7 A. Yes, yes.

8 Q. So is this an accurate representation of
9 what you believed at the time?

10 A. What "this"?

11 MS. SPAINHOUR: Object to form.

12 BY MS. GERSEN:

13 Q. Did you -- is this an accurate, a
14 truthful -- is this truthful testimony about what
15 your expectation was at the time?

16 A. When you say -- I'm not understanding when
17 you're saying "this." What are you referring to?

18 Q. This paragraph 9.

19 A. Oh, in my declaration?

20 Q. Yes. Is this a truthful sentence from you?

21 A. Yes, because I'm reflecting on what was, my
22 understanding of what was agreed between the
23 plaintiff and Ross Richardson.

24 Q. Right. So did you have the knowledge that
25 Ross Richardson created the expectation that she

1 would transition to an assistant federal defender?

2 A. My knowledge comes from the letter, the
3 offer letter, saying that she would be hired with the
4 expectation she would transition to an assistant
5 federal -- assistant defender position.

6 Q. Did you see this letter before today?

7 A. I saw the letter before today; yes, ma'am.

8 Q. So you didn't testify earlier that you
9 never saw this letter before?

10 A. No, ma'am, I said the e-mail on the back
11 portion of this page, you asked me to look at this
12 e-mail that's attached to the letter. I never saw
13 that e-mail. I did see the letter.

14 Q. You did see the letter?

15 A. Yes, ma'am.

16 Q. Okay. So you saw the letter before writing
17 this declaration; is that right?

18 A. Yes, ma'am.

19 Q. So -- and when you said "Plaintiff was to
20 start work," with the expectation that she would
21 transition to any -- to an assistant federal defender
22 "at an unspecified time in the future," did you mean
23 that you expected that she would transition to an
24 assistant federal defender?

25 A. That I expected her?

1 Q. Yes.

2 A. No, I'm just reflecting on what
3 Ross Richardson expected.

4 Q. Yes. Could that also mean that that's what
5 Ms. Strickland would have expected upon receiving the
6 letter?

7 A. I don't understand your question.

8 Q. Well, you're saying that Ross Richardson
9 would have expected that she would transition to an
10 AAFP.

11 A. If Ms. Strickland relies on this, yes. I
12 could see her having that same expectation, yes.

13 Q. Right. But you didn't have the expectation
14 that she would transition to an AAFP?

15 A. Well, I was not involved in that
16 discussion.

17 Q. You weren't involved in that discussion, so
18 what did you mean in paragraph 9 about the
19 expectations -- the expectation? Whose expectation
20 were you talking about in this declaration?

21 A. Ms. Strickland had the expectation that
22 she, Plaintiff, was to start work with the
23 expectation, that was her expectation, that she would
24 transition to assistant defender, not my expectation.
25 I had no expectation. I'm not involved in that

1 discussion.

2 Q. So this is your declaration; is that right?

3 A. Yes, ma'am.

4 Q. So were you declaring what Plaintiff was
5 expecting?

6 A. What Plaintiff and/or Ross Richardson was
7 expecting --

8 Q. Right.

9 A. -- that wasn't -- go ahead, I'm sorry.

10 Q. I'm sorry. No, you go ahead, please.

11 A. That was an agreement between both of them.
12 That's what I'm referring to.

13 Q. And so you were testifying in this
14 declaration about Plaintiff's expectation, as well as
15 Ross Richardson's expectation?

16 A. Correct.

17 Q. But not testifying about your own
18 expectation?

19 A. Correct.

20 Q. Because you had no expectation that she
21 would transition to an AAFP?

22 A. I was not involved in that discussion.

23 Q. So does not being involved in that
24 discussion mean that you can't form an expectation
25 about whether she would transition?

1 A. I had no expectation.

2 Q. You had no expectation. Okay. I just
3 wanted to get clear on what you meant.

4 A. Yeah.

5 Q. And did you write this declaration to
6 reflect what was in the letter from Ross Richardson?

7 A. Correct.

8 Q. So -- and the expectation that you talked
9 about in paragraph 9 of the declaration, was that
10 something that you were aware of in the first year of
11 your tenure as the -- as the federal defender?

12 A. I did not see this letter probably until
13 later in my first year.

14 Q. Do you have any recollection of how you
15 might have seen the letter?

16 A. It came up, I believe, in 2018. It was
17 probably around April, May of 2018, either -- yes, it
18 came up around then.

19 Q. Of -- I'm sorry, could you say it again.

20 A. This letter was brought to my attention
21 back in May, April or May of 2018, around there, but
22 I had -- coming into my position, I had no idea that
23 this ever existed, this letter existed; but I did
24 know it existed prior to my drafting the declaration.

25 Q. If you did know that this letter existed,

1 say at the time you came in as the federal defender
2 in August, is there anything you would have done
3 differently?

4 A. No.

5 Q. No.

6 A. No.

7 Q. So you would have thought the same way
8 about Caryn's potential transition to AFPD regardless
9 of what this letter said?

10 A. What do you mean "thought the same way." I
11 don't understand.

12 Q. Earlier, you said you didn't have any
13 expectations that she would ever transition because
14 nobody -- you never had that expectation for anyone.

15 MS. WESTMORELAND: Objection to form.

16 BY MS. GERSEN:

17 Q. So my question is: Did you -- would you
18 have had an expectation that she would transition to
19 an AFPD if you had seen this letter, say, in August?

20 A. No, this is an agreement, again, between
21 her and Ross Richardson, not with me.

22 Q. So you do not see the agreement with the
23 former defender as having any binding effect on you?

24 A. Correct.

25 Q. So it was just with another federal

1 defender, and so you could disregard agreements that
2 had existed prior to your taking the job?

3 MS. SPAINHOUR: Objection to form.

4 A. It was not binding on me.

5 Q. Uh-huh. It was not binding on you, and you
6 didn't think it was binding on the office?

7 A. I didn't think it was binding on the
8 office. It was not binding on me.

9 THE VIDEOGRAPHER: Ms. Gersen, I'm getting
10 a little mic noise.

11 MS. GERSEN: Yeah, it's my hair. I'll do
12 something about it on the break.

13 BY MS. GERSEN:

14 Q. Okay. So would it be reasonable for
15 someone receiving this letter from Ross Richardson to
16 expect a transition pretty soon there -- pretty soon
17 after?

18 A. Is it reasonable? Probably, yeah.

19 Q. So you were previously -- you said you were
20 previously a first assistant?

21 A. Yes, ma'am.

22 Q. So I wanted to know about the job, first
23 assistant. What does the first assistant do?

24 A. I had a full caseload and basically work
25 on any project that the defender would request,

1 remained in that job, there was no other thing that
2 needed to be done; is that right?

3 A. Correct.

4 Q. I see.

5 A. Correct.

6 Q. Did you interview people for the job or
7 consider other candidates?

8 A. No. No, I didn't open it up. I considered
9 everybody in private, but not like I interviewed. I
10 conducted individual interviews with people just to
11 see where they were at in terms of the office and
12 stuff like that. So it's sort of like I'm checking
13 them out, but --

14 Q. Right. So JP, as the first assistant,
15 was -- had a role, had a role in the personnel
16 manual?

17 A. Yes, in drafting it, yes.

18 Q. In drafting it?

19 A. Yes.

20 Q. Was he the primary?

21 A. No, there was no primary. It was -- I
22 don't know how he was involved. He was involved; it
23 might have been one or two other people. I think
24 Bill might have been involved. I don't recall.

25 Q. Yeah. So just for me to understand the

1 first assistant's job duties as opposed to the
2 defender's job duties --

3 A. Yes.

4 Q. -- did you delegate a lot of things to the
5 first assistant?

6 A. I delegated some things, I wouldn't say a
7 lot. I try to spread it out, but basically, so you
8 understand, he supervises the whole office, also.
9 Like he's technically a supervisor for the whole
10 office.

11 Q. The whole office, meaning Charlotte and
12 Asheville, or just Charlotte?

13 A. Yeah, yeah.

14 Q. So he supervises the entire FDO at both
15 locations?

16 A. Yes, yes. Now, he can -- I'm the only one
17 that can promote, demote, fire, terminate, things of
18 that nature. But he's a supervisor, so you only get
19 so many supervisors -- I don't mean you, I meant as a
20 defender -- based on the number of AFPDs you have, so
21 I believe.

22 Q. And please correct me if I'm not using the
23 right lingo or terms --

24 A. No problem.

25 Q. -- because I just want to get it right.

1 You said you created trial teams?

2 A. Yes, ma'am.

3 Q. And are those same as trial units, or is
4 that a different thing? I'm just trying to
5 understand when I see language about the office, that
6 I'm getting the structure of it right.

7 A. Okay. So I think when you heard trial
8 unit, they're talking about, you know, the whole
9 unit, which has teams in it.

10 Q. The whole unit?

11 A. Right.

12 Q. So would there be one unit then for trial?

13 A. Yeah, so you have one, but then you have
14 divisions, right? So you have offices, so I had an
15 Asheville division.

16 Q. Of the trial unit?

17 A. Correct.

18 Q. Okay. Got it.

19 A. Correct. But then I had appellate
20 attorneys there of the appellate unit.

21 Q. And was it only trial and appellate units,
22 or were there other units?

23 A. There is a trial unit, appellate unit, and
24 admin.

25 Q. Admin. And admin was what it sounds like?

1 A. IT, yeah, IT, administrative officer.

2 Q. Got it. And did you say Bill Moorman was
3 head of that admin unit?

4 A. Bill Moorman was, I would say, I would say
5 probably head; you could probably say head. Yes,
6 ma'am.

7 Q. Okay. So did JP oversee the trial unit?

8 A. He oversees the whole office, as I
9 indicated.

10 Q. Oh. So does he oversee all of the units
11 then?

12 A. Yes.

13 Q. He oversaw all of the units?

14 A. Right.

15 Q. Appellate as well?

16 A. Yes, ma'am.

17 Q. So -- and what specific duties did
18 overseeing the trial unit entail?

19 A. General supervision. It could be referring
20 a person to me for discipline action or it could be a
21 multitude of general supervisory things.

22 Q. So referring someone to you for
23 disciplinary action?

24 A. Yeah. If he observes or hears of something
25 that requires my looking into it, then I would look

1 into it.

2 Q. Right.

3 A. Just general supervisory.

4 Q. Right. And when you say discipline action,
5 what do you mean by that?

6 A. Any employee discipline actions. He's a
7 supervisor, so he supervises also.

8 Q. Right.

9 A. Yeah. If someone is lacking for whatever
10 reason, if someone -- just general supervisory.

11 Q. Okay. So is it fair to say JP, as first
12 assistant, supervised all employees at the FDO except
13 for you?

14 A. Yes, ma'am.

15 Q. And was he the only one who supervised all
16 of those employees?

17 A. Other than me.

18 Q. Other than you?

19 A. Yes, ma'am.

20 Q. So it's you supervise everyone.

21 A. Yes, ma'am.

22 Q. And then he supervises everyone else, not
23 you?

24 A. Correct.

25 Q. Okay. Got it. And so trial, appellate,

1 and administrative?

2 A. Yes, ma'am.

3 Q. So how often would you and JP communicate
4 while you were at -- while you were the federal
5 defender?

6 A. Often.

7 Q. Like daily?

8 A. Daily for sure.

9 Q. Several times a day?

10 A. Several times a day, for sure.

11 Q. And was it in person?

12 A. Yes.

13 Q. Also by e-mail?

14 A. Yes, ma'am.

15 Q. Texting?

16 A. Yes, ma'am.

17 Q. And did you consider him a friend?

18 A. I don't use -- I don't use -- I don't use
19 that word in relation to my employees, necessarily.
20 We had a friendly relationship, but I have friends
21 and then I have my employees, so --

22 Q. Yeah. Did you socialize with him outside
23 of work?

24 A. Occasionally.

25 Q. In what?

1 A. Very seldom. Usually -- like usually
2 celebratory, where, you know, as defenders, we're
3 always losing cases; so whenever we get a suppression
4 motion and the judge grants a suppression motion, the
5 evidence gets suppressed, let's have a few beers and
6 let's celebrate type of scenario, but never other
7 than that, really. It was always celebratory with
8 other people, but him and I would not socialize other
9 than in that scenario.

10 Q. Did you have confidence in JP Davis as your
11 first assistant?

12 A. Yes.

13 Q. Did you trust his judgment?

14 A. Yes.

15 Q. Did you ever have reason to doubt that he
16 behaved appropriately at work?

17 A. To doubt that he behaved -- I never
18 doubted.

19 Q. You never doubted that he behaved
20 appropriately at work. Okay. And to your knowledge
21 has he ever been the subject of complaints about his
22 conduct prior to Ms. Strickland's allegations?

23 A. No complaints. I mean, I'm just thinking
24 about some people maybe didn't like his style
25 sometimes, generally speaking, but nothing where it

1 was inappropriate. Nothing where I had -- I had full
2 confidence in him.

3 Q. You had full confidence in him.

4 A. Yes, ma'am.

5 Q. But he had not been the subject of
6 complaints?

7 A. Formal complaints, no.

8 Q. Informal complaints?

9 A. No.

10 Q. Okay. What about after Ms. Strickland's
11 complaint against him, or allegation against him?

12 A. No recollection.

13 Q. No recollection.

14 A. No.

15 Q. So you don't know of other complaints
16 against JP Davis other than the one made by
17 Ms. Strickland?

18 A. Correct.

19 Q. Okay. Had you -- so you had no concerns
20 about Mr. Davis' behavior toward coworkers before
21 Ms. Strickland's complaint?

22 A. Correct.

23 Q. Have you been in touch with JP Davis since
24 you left the FDO?

25 A. I spoke to him soon after my retirement

1 once or twice. I attended a wedding. One of my
2 coworkers, former coworkers, got married in several
3 weeks, and we attended a wedding in North Carolina,
4 and that was it. I haven't talked to him about it in
5 over a year.

6 Q. Did you ever communicate with JP Davis
7 about this case?

8 A. Before I left, we were talking about the
9 case, but since I left we haven't talked about the
10 case.

11 Q. Before you left as the defender, you talked
12 about this litigation?

13 A. Yes, ma'am. Yes, ma'am.

14 Q. Would you say you talked about it a handful
15 of times?

16 A. I can't say how many times. I can't
17 because his office was next to mine.

18 Q. I see.

19 A. We talked about a lot of things. We talked
20 about cases, management, training. There was so many
21 things we talked about, for me to put a number on how
22 many times we talked about it, I cannot.

23 Q. And have you communicated with JP about
24 this deposition?

25 A. No.

1 Q. Was JP, Caryn's mentor?

2 A. Yes.

3 Q. Did you assign JP as Caryn's mentor?

4 A. My recollection is when I came in, one of
5 the concerns I did have was that Caryn did not have
6 experience. I mean, she had no idea, you know,
7 starting from A, she had no idea about what we did as
8 a defender office. So I was concerned about that,
9 and I knew she needed somebody to at least show her
10 the ropes.

11 Basically, you know, review how motions are
12 drafted, you know, talk about the judges, procedures,
13 how we handle cases, what is the office about. Just
14 someone, and I thought JP was the perfect person,
15 because first, I'm always talking to him, his office
16 was next to me. We were always communicating, and I
17 could keep tabs on her and make sure she was okay and
18 growing through him, vicariously through him, without
19 having to directly do that, because that takes a lot
20 of time.

21 Q. So whose idea was it to have Caryn assigned
22 to JP?

23 A. My recollection is it was my idea for the
24 reasons I just articulated.

25 Q. It was your idea. And were other people

1 assigned mentors during your time as a defender?

2 A. No.

3 Q. Why is that?

4 A. No one else in the office lacked the
5 experience that Caryn lacked. Everyone else in the
6 office had at least several years of litigation;
7 trial work; defender work from, you know, a few years
8 up until 25. Some people had 25 years of experience.
9 She was the one with the least amount when I came
10 into the office, so out of that concern to make sure
11 that she had someone that she could go to, to show
12 her the ropes, I assigned her to JP.

13 Q. So she was the only one that you assigned a
14 mentor. She was the only person in the office --

15 A. Yes, ma'am.

16 Q. -- that you assigned?

17 A. Yes, ma'am.

18 Q. Okay. And other research and writing
19 specialists did not have a mentor?

20 A. No.

21 Q. So regarding JP Davis' level of experience
22 before you selected him as your first assistant, did
23 you know whether JP had ever first chaired a jury
24 trial?

25 A. I don't think he had first chaired. I

1 don't believe by around that time. I don't recall,
2 but I don't believe he had.

3 Q. So JP was Caryn's supervisor?

4 A. Yes.

5 Q. What was your impression of Caryn's work in
6 the first six months of her employment at the FDO?

7 A. She did excellent work. We had high hopes
8 for her. She was talented, she was energetic, and
9 she was working on this very complicated -- I'm going
10 to refer to it, for client confidentiality, I'm going
11 to refer to it as the life sentence trial.

12 Q. Yes.

13 A. There was a trial she was working on where
14 the client was facing life without parole, and she
15 did a bang-up job on that case. She did a good job,
16 so my impression was she was doing good work, a good
17 job, and hard working.

18 Q. In prior depositions, I believe that we
19 refer to one case as the Dixon case, and I wonder if
20 that's the case you're referring to.

21 A. Yeah. I just didn't want to use the
22 client's name.

23 Q. I understand.

24 A. Yes, ma'am.

25 Q. So that's what you were just referring to

1 right now --

2 A. Yes, ma'am.

3 Q. -- was the Dixon case?

4 A. Yes, ma'am.

5 Q. So do you recall meeting with Caryn in
6 December of 2017 to touch base about the timeline for
7 her transition to an AFD position?

8 A. I don't recall the date. I did recall
9 meeting with her, I think, at least two times.

10 Q. Right. At least two times in December --
11 well, at least two times you remember?

12 A. Correct, correct. Yes, I do recall.

13 Q. So what do you recall about those meetings?

14 A. I guess she was just checking in about, you
15 know, how she was doing. I was observing Caryn, not
16 knowing which avenue she was going to take, whether
17 she was going to go the trial route or the appellate
18 route, and I kept talking to her about that. And she
19 didn't know, because she was kind of dabbling in
20 both, trying to see which avenue she was going to
21 take.

22 Because in our world, I mean, generally
23 speaking, you can divide the attorneys that way. You
24 know, there's few that really like both. You either
25 like trial work and you can't stand the appellate

1 work, or you like appeals and writing and you don't
2 like trials. That's generally how it works.

3 So I was trying to see where she was at,
4 and I would ask her, I would say, "I'm trying to find
5 out where you're at." And she never quite knew
6 because she was still trying to figure -- I mean,
7 we're talking about six months into it, she was still
8 trying to figure herself out. So that, in essence,
9 was what those meetings were about.

10 Q. So is it fair that you were providing her
11 mentoring on that question?

12 MS. WESTMORELAND: Objection to form.

13 BY MS. GERSEN:

14 Q. You were providing her mentoring on those
15 topics that you described?

16 A. On what decision, what route she was going
17 to take.

18 Q. Right. Do you recall that the e-mail that
19 she sent you in December -- and it's fine if you
20 can't -- described that she wanted to discuss what the
21 transition to an AAFP would look like?

22 A. I saw that e-mail, so I understand what
23 you're talking about. I don't -- again, it would
24 fall into how I described the meetings that I would
25 sit down with her and try to find out which avenue

1 she was going.

2 Q. So did you think that Caryn was on track at
3 that time to become an AFPD?

4 A. Yeah.

5 Q. You did?

6 A. Yeah.

7 Q. Did you have any view as to the time frame?

8 A. No, that's the -- that's the issue, time
9 frame.

10 Q. What do you mean by that's the issue?

11 A. Well, because I can't -- as the defender, I
12 get so many -- prior to reclassifying Caryn a
13 defender, I was limited to the number of AFPDs I
14 would get. To add another AFPD, I would have to seek
15 circuit approval and DSO approval. And the circuits,
16 all circuits and DSO were not approving those unless
17 you had significant increase in workload.

18 So I couldn't tell somebody who's an R&W,
19 "Oh, yeah, you can be an AFPD in three months." I
20 don't have the FTE for that, the approval, so I
21 couldn't promise that. I couldn't put a time frame
22 on that. Now, was she on that path, yeah.

23 Q. So if the FTE availability had not been a
24 concern, would you have been able to tell her roughly
25 when you expected her to transition to AFPD?

1 A. Yes, ma'am.

2 MS. GERSEN: Okay. I think we can take a
3 break. Thank you so much.

4 THE WITNESS: Yes, yes, yes.

5 MS. GERSEN: Can we do another five
6 minutes?

7 THE VIDEOGRAPHER: We're off the record at
8 11:45.

9 (Recess from 11:45 a.m. to 11:54 a.m.)

10 THE VIDEOGRAPHER: We're back on the
11 record.

12 BY MS. GERSEN:

13 Q. Do you recall when you first became aware
14 that Caryn was --

15 THE VIDEOGRAPHER: Sorry. I apologize. I
16 think your microphone.

17 BY MS. GERSEN:

18 Q. Do you recall when you first became aware
19 that Caryn was uncomfortable with JP's conduct toward
20 her?

21 A. Yes.

22 Q. And when was that?

23 A. There was a meeting -- there was a meeting
24 on July 2nd that she came to my office.

25 Q. Anything before then?

1 A. I don't recall. There might have been
2 something before then. You would have to give me
3 something to refresh my recollection of the date.

4 MS. GERSEN: Can I have Tab 6, please.

5 BY MS. GERSEN:

6 Q. Just a brief refresh.

7 A. Yes.

8 MR. SPAINHOUR: Is that 58 or 59?

9 (Exhibit 59 was marked for the record.)

10 BY MS. GERSEN:

11 Q. I'm handing you Exhibit 59, and do you
12 recognize this e-mail? Have you seen it -- do you
13 recognize this e-mail from JP to Caryn?

14 A. Yes.

15 Q. And so you recall reading this e-mail
16 before?

17 A. Yes. Before today, yes.

18 Q. Before today. In what context were you
19 previously shown this e-mail?

20 MS. SPAINHOUR: Objection to form.

21 A. After -- I received a copy of this after my
22 contacting the Fourth Circuit Court of Appeals and
23 advising them that there was an allegation by Caryn,
24 Ms. Strickland, about my first assistant's
25 misconduct. It was after that. Before that, I had

1 never seen this e-mail.

2 Q. When you read this e-mail, do you recall
3 what you thought of it?

4 A. Yes. Yes, I do.

5 Q. What do you think of this e-mail?

6 A. Well, again, I'm going to read it. "Dude,
7 you're shooting high with a G15, not least of all
8 since you'll need five more years of federal service
9 to qualify for it. But fret not, I have a
10 plan...just remember I deal in pay-for-stay."

11 I interpreted that as him saying that
12 somehow he's going to have some say, utilize his say
13 or influence to make sure she gets more pay so she
14 could stay.

15 Q. More pay so she could stay where?

16 A. In the office.

17 Q. Which office?

18 A. The defender office.

19 Q. Why -- what did you understand about the
20 context for his saying "pay-for-stay"?

21 A. On this day, I was notified by Mr. Davis
22 that Caryn had indicated that she could not continue
23 commuting to Asheville. She was about to be married
24 or she was married, I don't have the dates right.
25 Her husband was living in the Asheville area and she

1 was going to demand that she get a promotion. She
2 was going to wave that original offer letter to me.
3 She was going to get a trial, have a trial to show
4 that she was, basically, indispensable, so that she
5 could get a promotion and she could get a change of
6 duties switched to Asheville.

7 So the thing is, I'm going to demand this
8 or I'm going to quit. So the context I took this was
9 JP was saying, Don't worry, I'll deal in pay-for-stay
10 so you can stay and not quit.

11 Q. Are you reporting to me now what JP told
12 you about this e-mail?

13 A. You asked me in what context?

14 Q. Yes.

15 A. I -- JP did not reveal this e-mail. I'm
16 saying JP had reported to me a comment that Caryn had
17 made to him, that she was going to demand that she be
18 promoted, she have a change of duty exchange, she was
19 going to wave that offer letter to me, and, if not,
20 she was going to quit.

21 Q. So all of that is what JP told you about
22 that, what happened on that day?

23 A. Correct. He advised me of that, about what
24 happened on May 18th.

25 Q. And did he advise you of that on May 18th?

1 A. No, sometime later.

2 Q. Approximately how much time?

3 A. I can't recall. I can only recall in
4 context. I can't recall the dates, to be honest.

5 Q. So do you think it was short -- sorry.

6 A. Shortly after, but I can't recall the time.
7 I'm sorry.

8 Q. But shortly after May 18th, you think?

9 A. Yes, it could have been several weeks.
10 There's so many things happening around that time.

11 Q. Right.

12 A. But he made me aware that that's the
13 conversation he had with her. So when I see this
14 after the EDR process started, I interpreted this
15 e-mail as referring to that conversation, and the
16 dates coincide.

17 Q. Right. So when you saw this e-mail
18 later --

19 A. Yes, ma'am, yes, ma'am.

20 Q. -- after JP had told you previously about
21 the conversation, that was --

22 A. Yes, ma'am.

23 Q. -- that provided the context?

24 A. Yes, ma'am.

25 Q. Did you think it confirmed JP's account?

1 A. Yes, ma'am.

2 Q. Okay. So you believed JP's account about
3 the conversation he had with Caryn?

4 A. I always believed it.

5 Q. Okay. Great. And what did you think that
6 "mas dinero" meant in this? In the heading of the
7 e-mail was "mas dinero." What do you think he meant?

8 A. I speak Spanish, so it means more money.

9 Q. More money. It was referring to salary
10 then?

11 A. I have no idea what he's referring to.

12 Q. You don't know, okay. And "pay-for-stay,"
13 what did you think that that meant when you read this
14 e-mail?

15 A. Well, that's what I was trying to tell you.

16 Q. Yeah.

17 A. So taking into context, he had told me
18 already about a conversation he had with Caryn on
19 May 18th whereby she said, "I'm going to demand that I
20 get a promotion and/or I get a change of duty station.
21 I'm going to take the offer letter, because they told
22 me," according to her, "that I would become an
23 assistant federal public defender. If I don't get a
24 promotion, I am going to quit."

25 So when I see this months, months, later, I

1 Caryn was alleging that she interpreted this as a
2 sexual quid pro quo, okay, had I -- so I had that in
3 my mind. But when I look at it for myself, knowing
4 the context that this was made, from JP's perspective
5 I understand what he intended, because he had already
6 told me that she was demanding, making these demands,
7 or she would quit.

8 Q. And it was from JP's perspective that you
9 were reading the e-mail?

10 A. Yes, ma'am. Yes.

11 Q. Did you think to look at it from Caryn's
12 perspective?

13 A. Yes, ma'am. And I looked at it in terms of
14 maybe the appropriateness of it.

15 Q. Okay.

16 A. And maybe it could have been said in a
17 different way. Yes, no doubt. But no way am I
18 interpreting that, this e-mail, as a quid pro quo for
19 sex, knowing what I know, and knowing what she said
20 to him around this time.

21 Q. Right. And knowing what you know, just to
22 clarify, do you mean you know what you know because
23 JP told you?

24 A. Correct.

25 Q. And when you said the appropriateness -- you

1 used the word "appropriateness," and I just wanted to
2 ask you what you meant. Did you think it was
3 expressed inappropriately?

4 A. He might have been able to use different
5 words. When I say, you know, "inappropriate," he
6 might have used, he might have been able to use
7 another word than "pay-for-stay." That's the only
8 reason why I say appropriateness.

9 But I don't see, taking this on its face, I
10 don't see a quid pro quo. I don't see it, a sexual
11 force.

12 Q. I understand. What do you mean by he could
13 have used, he might have used other words than
14 "pay-for-stay"?

15 A. I have no idea of what words he could have
16 used. Don't worry, I will see to it that maybe you
17 can get a higher pay, you won't have to quit.

18 I can't -- I would be speculating, but he
19 might have been able to use different language.

20 Q. Would he -- might he -- I'm sorry, go
21 ahead.

22 A. But I don't know what language, I don't
23 know.

24 Q. Please, I apologize for the interruptions,
25 it's just a sign of my wanting to engage with you.

1 A. No, you're fine.

2 Q. So I -- so in terms of the word, the
3 concept of appropriateness, I just wanted to see if
4 you thought you meant that it was inappropriate for
5 him to use the words "pay-for-stay."

6 A. He could have used better language.

7 Q. Because using the words "pay-for-stay" --

8 A. Could be misinterpreted.

9 Q. Could be misinterpreted?

10 A. Yes, ma'am.

11 Q. And what could it be misinterpreted as?

12 A. Maybe sexual favors, disagreements -- I
13 could see that being misinterpreted, that language.
14 I can see that.

15 Q. You can see it. Okay. So I'm just going
16 to now show you an exhibit.

17 MS. GERSEN: Tab 7, please.

18 A. Do you want me to keep this?

19 Q. Yeah. You can keep this it in front of
20 you.

21 THE COURT REPORTER: This will be
22 Exhibit 60.

23 (Exhibit 60 was marked for identification.)

24 Q. Okay. I'm handing you Exhibit 60. These
25 are text messages. Do you recognize them?

1 Q. They were justified in being upset?

2 A. Yes, ma'am.

3 Q. Because she had directly asked you to
4 second chair the Dixon trial; is that right?

5 A. And not consulted with them, yes, ma'am.

6 Q. So was there something wrong with Caryn
7 asking you to second chair a trial?

8 A. I wouldn't say there is anything wrong, but
9 she should have gone through the channel of
10 communication and talked to the trial team leaders.

11 Q. So when she asked you to second chair the
12 Dixon trial, you simply assumed she had already done
13 that?

14 A. Correct.

15 Q. Was there anything wrong with Caryn asking
16 to get trial experience?

17 A. No.

18 Q. Was there anything wrong with her seeking
19 to work with you?

20 A. No.

21 MS. GERSEN: Let's do lunch now.

22 (Recess from 12:27 p.m. to 1:24 p.m.)

23 THE VIDEOGRAPHER: All right. Stand by,
24 everyone. We're back on the record.

25 MS. WESTMORELAND: And as I just mentioned

1 before, in answer to your question, Counsel,
2 Defendants would like to reserve the right to
3 read and sign the deposition transcript.

4 BY MS. GERSEN:

5 Q. Do you recall the meeting that you had with
6 Caryn Strickland several -- sorry, strike that.

7 Do you recall a meeting you had with
8 Caryn Strickland on June 6th, 2018; do you remember
9 that?

10 A. I recall a number of meetings.

11 Q. Uh-huh. Do you remember a meeting around
12 that time when she told you she was concerned about
13 JP's conduct toward her?

14 A. There was a meeting that -- could you put
15 it more into context?

16 Q. Okay. Why don't I show you something that
17 might refresh your recollection as to the specific
18 meeting.

19 MS. GERSEN: Can I have Tab 13?

20 THE COURT REPORTER: This is Plaintiff's
21 61.

22 MS. GERSEN: Oh, I thought we were --

23 THE COURT REPORTER: Oh, this one is going
24 to be 58.

25 MS. GERSEN: Yeah, 58.

1 (Exhibit 58 was marked for identification.)

2 BY MS. GERSEN:

3 Q. So I'm handing you what we've marked as

4 Exhibit 58. Do you recognize this document?

5 A. No. Can I read it?

6 Q. Yes, please read it.

7 So this is really just -- sorry, go ahead,
8 finish.

9 A. Okay.

10 Q. Okay. So I really just want to ask you
11 about the first paragraph of the document.

12 A. Oh, okay. Okay.

13 Q. So sorry I didn't make that clearer.

14 So does reading this refresh your
15 recollection at all about a meeting that occurred on
16 June 6th, 2018?

17 A. This is the first time I've seen this
18 document, so --

19 Q. Do you -- so you don't recognize this
20 document?

21 A. No, I never saw this document, and I'm not
22 questioning it. I'm just saying, I'm trying to
23 recollect, based on this document, some of that
24 meeting, is what I'm trying to say.

25 Q. So what does the meeting indicate? I mean,

1 what does the document indicate as to who was there?

2 A. Well, it indicates that Caryn has stated
3 that she -- that being on this case, I'm assuming it
4 was the life sentence case, the trial, has created
5 tensions with other cases. And then she advises me
6 about the cancellation of her meeting with JP on the
7 PSI or whatever, and he was very disturbed; so yes.

8 Q. Are these Holly Dixon's notes from the
9 meeting that you had with Caryn?

10 MS. SPAINHOUR: Objection.

11 MS. WESTMORELAND: Objection, lack of
12 foundation.

13 A. This is the first time I've seen this.
14 Honestly, I didn't even know this document existed.
15 So I'm not questioning whether it's Holly, I just
16 can't vouch for it. I don't --

17 Q. So you don't know who took -- who created
18 this document?

19 A. Correct.

20 Q. Right. And this is a document that -- so
21 you've never seen it before?

22 A. Correct.

23 Q. Do you recall the meeting that is being
24 referred to in these notes?

25 A. Yes. Yes.

1 Q. Yes. So what did you understand Caryn to
2 be saying to you in this meeting?

3 A. What she said. I mean, it's in black and
4 white, that JP was disturbed about her wanting to go
5 to the discovery review rather than the other case,
6 that she understood -- her understanding was that
7 these interviews, or these meetings, were optional,
8 and that she was surprised by his reaction.

9 Q. These aren't your notes, are they?

10 A. No.

11 MS. WESTMORELAND: Objection to form.

12 A. No, no. I've never seen this document
13 before.

14 Q. So you -- but you don't have any reason to
15 doubt that this is what happened in the meeting?

16 A. No. No, I'm not questioning it. I've
17 never seen this document, or if I did, it was years,
18 right when it was happening. And this is five years
19 ago, close to five years ago, in 2018.

20 Q. It says in the notes here, "Tony told Caryn
21 to work these issues out with JP."

22 Does that seem like an accurate
23 description?

24 A. Yes, ma'am. Yes, ma'am.

25 Q. And what did you think you were telling her

1 to work out?

2 A. I understood them both to have a
3 communication issue, that there was a breakdown of
4 communication, and that JP wanted her to attend the
5 PSI interview. She wanted to continue with the
6 discovery on the Dixon case, or the trial. She
7 thought that her going to the PSI was optional, and
8 to me, it was a breakdown in communication. And
9 that's why I said, "Both of you need to work this
10 out."

11 Q. So when you say, "to me, it was a breakdown
12 in communication," what do you mean by that?

13 A. Caryn is under the impression it's
14 optional; JP is under the impression it is not
15 optional. Obviously, they're not -- I don't know the
16 word -- in agreement, or there is a lack of
17 communication between them; they're not understanding
18 each other. And so I then just kind of threw it back
19 at Caryn and said, you know, Both of you, please work
20 this out.

21 MS. GERSEN: Can we go to Tab 12.

22 THE COURT REPORTER: This will be
23 Plaintiff's 61.

24 (Exhibit 61 was marked for identification.)

25 BY MS. GERSEN:

1 Q. I'm handing you Exhibit 61. You may not
2 have seen this before. I would like you to turn to
3 Bates 6119.

4 A. I'm sorry?

5 Q. Actually, why don't you start -- why don't
6 you just read the whole thing, and let me know when
7 you're done.

8 A. Okay.

9 Okay.

10 Q. Okay. So you've testified that you were
11 JP's supervisor; is that right?

12 A. Correct.

13 Q. Okay. What do you understand JP to be
14 telling Caryn about whether the PSI is optional?

15 A. I'm trying to understand your question.

16 Q. Well, why don't we start -- why don't we
17 start with -- you read the whole thing. So why don't
18 we start with the e-mail on the second page, 611 --
19 US6119, could you read in the middle of the page, the
20 e-mail there, from JP to Caryn on March 3rd, 2018?

21 A. "No worries, though sucks not to have you
22 there. We'll find another one. Also, I'm sure you
23 know this, but you don't have to do these shadowing
24 things with me; just let me know if you do something
25 with someone else so I can check it off your list."

1 Is that what you're referring to?

2 Q. Uh-huh.

3 A. Okay. What is your question?

4 Q. Does it sound to you like he's saying the
5 PSIs are optional?

6 A. It sounds like he is. It sounds like -- I
7 mean, the thing speaks for itself.

8 Q. Okay. And then, if you look at the e-mail
9 on the first page, the e-mail exchange between Caryn
10 and JP on the first page, what is he saying about
11 whether the PSI is optional?

12 A. Can I just backtrack?

13 Q. Of course.

14 A. I don't know what exactly he's referring
15 to. I'm not sure I -- the e-mail I just read says,
16 "You don't have to do these shadowing things with
17 me," so I'm not sure about what he's referring to
18 when he says, "You don't have to do these shadowing
19 things with me."

20 Q. Okay. Thanks for clarifying.

21 So "these shadowing things." What are the
22 kinds of things that involve shadowing?

23 A. I have no idea.

24 Q. You have no idea what shadowing means?

25 A. I know what shadowing means, but I don't

1 A. I don't recall having that conversation
2 with her.

3 Q. Did you ask Caryn whether JP was sexually
4 harassing her?

5 A. I asked her that on July 5th.

6 Q. Okay. So on July 2nd, did you have concern
7 that JP's behavior might be sexual harassment?

8 A. I did have concern, because I wasn't
9 understanding -- it was almost cryptic. She wasn't
10 really explaining everything to me, and so I got a
11 little concerned, which is why I brought them both in
12 on July 5th.

13 Q. Okay. Did she ask you for confidentiality?

14 A. On July 2nd, no. If you're talking about
15 July 2nd, no.

16 Q. Okay. So then July 5th, you mentioned --

17 A. I'm sorry, she might have said, "I don't
18 want JP to know about this, this is between you and
19 I," when you say confidentiality.

20 Q. Okay.

21 A. That was on July 2nd.

22 Q. On July 2nd?

23 A. Yes, ma'am.

24 Q. So you think she said, "I don't want JP to
25 know about this"?

1 A. Yes, ma'am. Yes.

2 Q. Okay.

3 A. "Because I'm creating some boundaries, and
4 I'm just keeping you in the loop."

5 Q. Right. So did you talk to JP about what
6 Caryn told you after July 2nd?

7 A. No.

8 Q. Before July 5th?

9 A. No. No. No.

10 Q. Did you tell anyone else what Caryn told
11 you?

12 A. No.

13 Q. So three days later, on July 5th --

14 A. Correct.

15 Q. -- you asked Caryn to meet with you about
16 the matter?

17 A. Not her. They were both in the office, I
18 was trying to find a good time to bring them both in
19 to settle this, what I considered -- the primary
20 thing I thought all along was a breakdown in
21 communication. Because underlying this whole thing
22 was JP getting upset and getting angry about Caryn
23 not attending the Watt PSI, and her thinking that it
24 was a shadowing activity and her wanting to do the
25 discovery work on the Dixon trial. So that was the

1 underlying thing.

2 So I thought this is a breakdown in
3 communication again, and so I brought them both
4 together so we can come together and see, okay, let
5 me try to fix this.

6 Q. Before that July 5th meeting where you
7 brought them together, did you tell --

8 A. No, I brought them on July 5th.

9 Q. Yes. The July 5th meeting.

10 A. Yes.

11 Q. You said you brought them together on
12 July 5th.

13 A. Yes, ma'am.

14 Q. Did you tell JP the reason for bringing
15 them together for the meeting?

16 A. Yes.

17 Q. What did you tell him?

18 A. I think it was real quick, I caught them,
19 honestly, off guard. I didn't want them to be
20 prepared, because they were both appearing to me to
21 be very defensive with one another. So I said, "I
22 really want to fix this breakdown in communication.
23 Wait here. I'm going to go get Caryn. I know she's
24 here, and we're going to have a meeting right now in
25 my office."

1 Q. Before July 5th, did you think there was a
2 possibility that Caryn was talking about sexual
3 harassment?

4 A. It raised my concerns, it did raise my
5 concerns.

6 Q. Okay.

7 MS. GERSEN: So let's do Tab 18 now. This
8 is Tab 18.

9 (Exhibit 62 was marked for identification.)

10 BY MS. GERSEN:

11 Q. All right. I'm handing you Exhibit 62.
12 Do you recognize this document?

13 A. Yes.

14 Q. What is it?

15 A. It is my Significant Event Log.

16 Q. Does it look like an accurate copy?

17 A. Yes.

18 Q. Okay. And can you tell me what your
19 Significant Event Log is?

20 A. What this is?

21 Q. Yeah. What is your Significant Event Log?
22 You said, "It's my Significant Event Log." What does
23 that mean?

24 A. If there is a meeting or something that
25 popped up, I usually make notes of the meeting and I

1 put it in a Significant Event Log. I have a
2 Significant Event file --

3 Q. Uh-huh.

4 A. -- or folder, I should say.

5 Q. Right. So only for events that you
6 consider significant?

7 A. Correct.

8 Q. Right. Not every event, not every meeting.

9 A. Correct.

10 Q. So what do these notes -- do you want to
11 take a second to read the notes?

12 A. I'm pretty familiar with these notes.

13 Q. What do these notes indicate to you about
14 why you wanted to have this meeting?

15 A. Yeah. So I mean, I can read it, "On this
16 date I met with Caryn and JP." That was on July 5th,
17 I pulled them both together because I wanted to
18 resolve a breakdown in communication. "I also wanted
19 to clarify with Caryn any issue about harassment by
20 JP." Again, it wasn't clear to me on July 2nd, and I
21 did have a concern, so I wanted to clarify it.

22 "A few days ago, Caryn walked into my
23 office," meaning on July 2nd, "and told me she wanted
24 to know if she had my support," and "I asked her what
25 kind of support she wanted and she said that she just

1 wanted to give me a heads up and keep me in the
2 loop."

3 And that's referring to July 2nd.

4 Q. In the fourth paragraph, can you read aloud
5 the fourth paragraph of the document?

6 A. What paragraph do you want me to read?

7 Q. Actually, why don't you do the third and
8 fourth paragraph, if that's okay, for the record.

9 A. Yeah. "I then specifically asked her about
10 any possible harassment by JP. She advised me on
11 several occasions he made her feel uncomfortable by
12 wanting to meet after work hours. On one specific
13 situation she said they both had stayed late working
14 on the case. When the meeting was over, JP asked her
15 if she needed a ride. Caryn advised him that she had
16 had her bike and she did not need a ride. She went
17 and got her bike and on her way out to the first
18 floor, JP was waiting for her in the lobby and asked
19 her if she needed a ride. Caryn said no and left."
20 She indicated she -- that's my language, "creeped
21 out."

22 Q. Okay.

23 A. I don't know if she used that specific
24 language, but she just felt creeped out by him being
25 in the lobby after she said no to his request.

1 Q. Do you want to read the next paragraph?

2 A. Right. Then, "I specifically asked Caryn
3 if there was any inappropriate touching or attempting
4 to touch her. She said no. I told her that I wanted
5 to make sure she worked in a environment where she
6 felt comfortable. She advised me she did not want to
7 submit a complaint against JP."

8 Q. Does that accord with your recollection of
9 the event?

10 A. Yes, ma'am. Yes, ma'am.

11 Q. Why did you ask about touching,
12 inappropriate touching or attempted touching?

13 A. I understand that there is a physical
14 aspect to sexual harassment. In this particular
15 scenario, when she's talking about she came down the
16 elevator and came to the lobby, I was really asking
17 about did JP do anything else than just stand there,
18 and, in essence, that's what I was saying. When I
19 say, "touching or something physical," she said, "No,
20 he went his way and she went that way." That's what
21 I was -- that's why I asked that question.

22 Q. Did you think that if she was touched, then
23 she would have experienced sexual harassment?

24 A. Oh, obviously, if she was. More, if he was
25 trying to do something, then, yes.

1 Q. And did you think that if she wasn't
2 touched, then it wasn't sexual harassment?

3 A. Well, I would have to find out more
4 information about whether it was.

5 Q. "Find out more information about whether it
6 was," what?

7 A. Sexual harassment.

8 Q. And so what was the concern about touching
9 in relation to?

10 A. Well, when I found out the facts of this
11 sometime later; this is the first time I hear of
12 this, I find out from JP, he showed me the text,
13 where he asked her, Hey, it's raining -- and I
14 remember that night because I was in the office that
15 night -- it was raining and he asked her, "Do you
16 need a ride?"

17 She said, "No."

18 He was about to leave and there was a text
19 that he sent saying, "Hey, this is your last attempt,
20 do you" -- "this is your last opportunity, do you
21 want to"?

22 And she didn't respond to that. So he was
23 waiting for her and she hadn't read the text, and
24 that explained to me the rationale behind him waiting
25 in the lobby, and it wasn't an attempt to do anything

1 forward or aggressive or anything like that.

2 His intent was actually, it says in the
3 text, "This is your last chance."

4 She never responded and he's waiting. And
5 when she said, "No," she agreed, they both departed.
6 So --

7 Q. You said JP showed you the text?

8 A. Yes, ma'am.

9 Q. When did he show that to you?

10 A. After this, and I don't recall the timing,
11 to be honest, but once I got notice of this, it
12 wasn't, I didn't reveal this to him. I kept it
13 confidence. As you see, I never mentioned it. He
14 comes back in the meeting, I never mentioned what she
15 said, but I found out about -- I asked him about the
16 texts.

17 Q. Okay. So in the last, in what you just
18 read aloud, it indicates that you told her, told
19 Caryn, "I wanted to make sure she was able to work in
20 an environment where she felt comfortable."

21 Did you do anything to make sure she felt
22 comfortable?

23 A. Yeah. So then I proposed that JP no longer
24 be the mentor. I knew that Caryn had a good
25 relationship with another senior attorney,

1 Kelly Johnson, in the office. I asked whether they
2 were both in agreement, I asked Caryn, "Would you
3 agree this is a good time to change mentors?"

4 She said yes.

5 "JP, are you in agreement?" He was in
6 agreement.

7 Caryn thought it was a great idea to have
8 Kelly be the mentor, because she was already
9 having -- developing a good relationship with him in
10 mentoring, and so we agreed on that.

11 Q. Did you understand at this meeting that
12 Caryn said she was being sexually harassed?

13 A. No. No.

14 Q. You said that you were concerned before the
15 meeting, it raised a concern about sexual
16 harassment?

17 A. Sure. Sure. It was very coy, the way she
18 was talking about it, and I wasn't understanding.

19 Q. So at this meeting, did you feel that you
20 had a conclusion about whether she was alleging
21 sexual harassment?

22 A. I'm not quite understanding the way the
23 question is being phrased.

24 Q. So at this meeting, did you think that she
25 was alleging sexual harassment?

1 A. I was concerned. Honestly, I didn't know
2 what she was alleging, obviously, and that's why I
3 made the note. I wanted to check it out.

4 And then I asked her, "Are you alleging?"

5 She didn't want to file -- she said, "I
6 don't want to file a complaint." So it was very coy
7 in her language and, obviously, I was concerned, and
8 so I separated them. I was trying to take action and
9 separate them.

10 Q. What do you mean by coy?

11 A. She wasn't being straightforward with me.
12 I felt she wasn't -- I felt there might be some more
13 information or something. I just, you know, I just
14 didn't feel that I was getting all the information
15 from her.

16 Q. But from what you heard at the meeting, you
17 felt that you should do something; is that right?

18 A. Correct. I mean, there are two things. I
19 mean, there are two things. This is all I know. I
20 know she was -- JP was upset she didn't attend the
21 PSI, she said, you know, she was uncomfortable
22 because of the way he was angry, he was pale or
23 whatever. You know, he was angry. So that was an
24 issue.

25 And then, you know, the bike situation.

1 But in my eyes, I didn't see anything that had
2 occurred, based on the facts that were before me,
3 that rose to the level of sexual harassment.

4 Q. You thought it didn't rise to the level of
5 sexual harassment, but you still felt something
6 needed to be done?

7 A. Correct. To make her feel comfortable,
8 because she was uncomfortable. It was obvious to me
9 she was uncomfortable with JP. So I said I've got to
10 sever this relationship and have her go with another
11 mentor.

12 Q. Did you do -- apart from the things that
13 you already told me, did you do anything else to make
14 sure Caryn would feel comfortable?

15 A. No, I'm trying to think about this time.
16 That was the immediate reaction, or action that I
17 took. I cannot, at this time, recall.

18 Q. Right. And the immediate action that you
19 took, just to make sure I understand, was reassigning
20 her mentor?

21 A. Correct.

22 MS. GERSEN: Can we do Tab 19?

23 (Exhibit 63 was marked for the record.)

24 Q. This is Exhibit 63. Please take a moment
25 to read it.

1 about his conduct.

2 Q. Okay. So on this day, did you tell --
3 sorry, on July 5th, at the meeting, did you tell
4 Caryn that she wouldn't have to work under JP's
5 supervision?

6 A. No.

7 Q. What did you tell her about who would
8 supervise her going forward?

9 A. JP was a supervisor at this time and he was
10 going to continue being a supervisor.

11 MS. GERSEN: So can we look at Tab 21.

12 (Exhibit 64 was marked for identification.)

13 BY MS. GERSEN:

14 Q. I'm handing you Exhibit 64.

15 A. Can I read this?

16 Q. Yes, please.

17 A. Okay. Got it.

18 Q. This is an e-mail from July 20th --

19 A. Correct.

20 Q. -- from you to your entire staff; is that
21 right?

22 A. Yes, ma'am.

23 Q. And I want to focus just on the part where
24 you say Caryn will be assigned to Peter and JP's
25 teams?

1 A. Yes, ma'am.

2 Q. Can you explain what you meant there?

3 A. Yes. What I meant was, at that time, that
4 Caryn would be supporting Peter and JP's teams as an
5 R&W, meaning she would be doing that work for those
6 teams, supporting them in terms of drafting motions,
7 doing legal research, and things of that nature.

8 Q. Okay. Had you previously told her that she
9 would not have to be assigned to JP's team?

10 A. I don't recall really saying that. I
11 honestly don't recall, but the issue on July 5th was
12 mentoring.

13 Q. So the fact that she was being reassigned a
14 mentor didn't mean that she wouldn't have to work
15 under JP's supervision on his team; is that right?

16 A. No, my intent was not to have her work on
17 JP's team. This was a mistake.

18 Q. Oh, what do you mean? Can you explain what
19 you mean by mistake?

20 A. Yes, ma'am. I mistakenly assigned her to
21 Peter and JP's team and I called her. This was on
22 a -- I forget the date, it might have been a Thursday
23 or Friday, and when I got back in the office, over
24 the weekend I thought about what I did. It was a
25 long meeting; we had a long team leaders meeting, and

1 it was hours. And we were shifting FTE's around to
2 have R&Ws support the trial teams.

3 And I was so focused on the shifting and
4 how to spread the work, I mistakenly assigned Caryn
5 as supporting Peter and JP's team. I then called
6 Caryn. I told her, "I am sorry, I apologize. I
7 should have never done this."

8 She said, "Okay, I understand."

9 And I sent another e-mail correcting that
10 and taking her off working for JP's team.

11 Q. Why was it a mistake to assign her to JP's
12 team?

13 A. I didn't want her working and doing work
14 for him.

15 Q. Why didn't you want her working for him?

16 A. Because of the situation that just happened
17 on July 5th. I was trying to separate them. I mean,
18 this is another thing that I did, besides separate,
19 taking JP off as a mentor, this is another thing to
20 try to help her feel comfortable.

21 Q. So are you saying that this was a mistaken
22 assignment to JP's team because you had previously
23 told her that you would not assign her to JP's team?

24 MS. WESTMORELAND: Objection to form.

25 A. No, I'm not saying that.

1 Q. Then what are you saying about why it was a
2 mistake? Is it because you had decided for yourself
3 that you wouldn't assign her to JP's team?

4 A. Correct. I wanted to separate both of them
5 as much as I could and still have them both working
6 in the office. So one thing I did was take him off
7 as mentor, and the other thing I did was I didn't
8 want her doing any work on behalf of JP.

9 So when I did this, it was an accident.
10 Not because I had previously said anything to her. I
11 just, it was not my intent for her to do work for JP,
12 and as soon as I realized it, I called her. I
13 apologized, she said, "Okay," and I issued another --
14 there is another e-mail days later where I shift the
15 work around.

16 Q. Right. Why did she need an apology?

17 A. That was at my courtesy. I felt -- I
18 didn't want her to feel like here I'm taking JP off
19 as a mentor, now I'm putting her back to work with
20 JP. So as a courtesy, I said, "Caryn, I'm sorry, I
21 didn't mean to put you back to work with JP. I want
22 to accommodate you, make sure you're comfortable.
23 That was my bad, I apologize."

24 Q. Did you -- were you concerned that Caryn
25 would feel uncomfortable working on JP's team?

1 A. Yes, ma'am, yes. That's why I did it.

2 Q. And so how did you correct the error after
3 the apology?

4 A. So what I did was, I had all the R&Ws
5 submit -- I had -- I assigned Jared Martin, who had
6 prior -- a lot of experience in the office. He had
7 eight years prior experience, he was an R&W then,
8 great writer. And I had him -- I had the attorneys
9 send the assignments to Jared, their writing
10 assignments; Jared would be the gatekeeper, and then
11 send the work out and avoid having Caryn working
12 directly with JP's team.

13 Q. So Jared was going to assign Caryn the
14 work?

15 A. Jared, not only Caryn, all work. He was
16 going to be the gatekeeper for all work for R&Ws.

17 Q. For R&Ws.

18 A. For legal research and writing work.

19 Q. And how many R&Ws --

20 A. There were three back then.

21 Q. Is the three back then meaning including
22 Caryn?

23 A. Correct. Around that time.

24 Q. So Caryn, Jared, and --

25 A. And it was Caleb.

1 Q. And Caleb?

2 A. But then Caleb left and there was a
3 position there that opened up.

4 Q. And so Jared -- do you mean that Jared
5 would assign the work to Caryn and Caleb?

6 A. Correct.

7 Q. Because you've told me all of the R&Ws?

8 A. Correct, correct.

9 Q. And who did Jared report to?

10 A. Josh, the appellate chief.

11 Q. So Jared did not report to JP?

12 A. Well, if I can answer to your question
13 before, JP was first assistant; so he supervised
14 everybody, technically.

15 Q. Okay. So is it fair to say that Caryn was
16 still working in JP's chain of command?

17 A. Yes, ma'am, yes, ma'am, but not directly.
18 So Josh was her chief.

19 Q. And did you think that this restructuring
20 was sufficient to protect Caryn?

21 A. When you say this restructuring, so this
22 was not a restructuring. There is another e-mail I
23 sent out days later restructuring this e-mail.

24 Q. Got it. That's the -- thank you for
25 clarifying. That's the one where you take her off of

1 And there was several days there that
2 between James Ishida and I, we were trying to figure
3 out what would happen next. He then advised me that
4 the next step would be to appoint an investigator; I
5 would need to appoint an investigator. He had talked
6 to Frank Johns, the clerk of the court in Charlotte,
7 and the clerk of the court recommended Heather Beam,
8 who is the HR specialist in the Western District of
9 North Carolina.

10 I then advised James, he said you should
11 appoint Heather Beam as investigator; I appointed
12 her. Heather Beam then commented to me, "Oh, great.
13 I have connections and know some people at the FEDS,"
14 we said?

15 Q. FEPS, I think.

16 A. FEPS, "And I dealt with them before, I'll
17 just call them to get some direction from them, and
18 I'll go from there, thank you."

19 She hung up. I want to say maybe within
20 that day, she calls me back and advises me, I was
21 advised by FEPS advisory -- advisor, counsel, I think
22 it was Jamal Scroggins or something.

23 Q. Oh, it's Amaal.

24 A. Amaal, sorry.

25 Q. Amaal Scroggins.

1 A. Scroggins. But she spoke to someone from
2 that office, and they instructed her. I'm pretty
3 sure she said Nancy Dunham advised her, Heather Beam,
4 that there is nothing that they can do about this,
5 nothing Heather can do about this situation.
6 Mr. Martinez needs to resolve this. Do not contact
7 any lawyers and this is a directive, this is an
8 order.

9 I then -- she then contacted -- you know,
10 this is Heather telling me this.

11 I then said, "What, Heather? I mean, I'm
12 not understanding."

13 "That's what I was told, Tony, and I can't
14 be involved in investigation of this case. I'm
15 done."

16 I called James, I said, "James, what's
17 going on here?" Heather just advised me of what I
18 just told you, I thought this, this complaint is
19 going to the Fourth Circuit, the EDR plan under the
20 on the Fourth Circuit applies here. How is the AO
21 saying this, or doing -- so it was clear to me that
22 Caryn had already contacted the AO, the FEPS office.
23 That's when I first found out that she had contacted
24 and filed or was communicating. I didn't know, but
25 they were aware of the situation.

1 Q. Do you recall meeting with Caryn on
2 August 9th --

3 A. Yes, ma'am.

4 Q. -- about her concerns about JP?

5 A. Yes, ma'am.

6 Q. So what do you recall about this, what was
7 discussed at this meeting?

8 A. It was maybe a 40-minute meeting, you know,
9 we talked about a lot; but in summary, I agreed to do
10 several things. She had certain demands that she
11 wanted taken care of because of the -- of how she
12 felt uncomfortable. And so she wanted to be an AFPD,
13 which I committed to doing, and I eventually did.

14 She wanted a change in the organizational
15 structure, which I did; so I changed the
16 organizational structure so she would not be under
17 JP but she would be under Josh and Josh would be
18 under me, so I tried to separate her that way. And
19 she wanted either a change in duty station or --
20 and/or remote working telework.

21 I advised her that in terms of change of
22 duty station, the only other duty station was
23 Asheville, and I had no space, at all, in Asheville.
24 I couldn't accommodate her there. I said, "Well,
25 I'll see maybe," but there was nothing I could do.

1 And telework, I was reluctant. Again, this was 2018,
2 this is pre-COVID, and I had a policy of no telework,
3 the AO even had a policy of no telework. General
4 policy, I don't know if it's -- but they were
5 frowning upon people working remotely because they
6 couldn't supervise them. That was an issue.

7 And I told her, and again, I'm trying to --
8 I'm walking a thin line here because I'm trying to
9 accommodate her but I don't want to raise any
10 eyebrows in the office, because if I have her
11 telework, then I'm raising eyebrows of, Well,
12 Mr. Martinez, why do you have her telework? I want
13 to telework, too.

14 And I was trying to explain that to her,
15 you know, "I'm trying to avoid raising eyebrows but
16 I'm trying to meet your demands at the same time and
17 accommodate you, and I can't do telework." So that,
18 in a nutshell, is August 9th.

19 MS. GERSEN: Okay. Can we have -- did we
20 introduce the entire declaration; did we do
21 that?

22 MR. GERSEN: I don't think we did.

23 MS. GERSEN: Can we do that now?

24 MR. GERSEN: I have a copy there. I think
25 you have one. That's yours.

1 MS. GERSEN: Yeah. Oh, that's not Tab 1.

2 MS. WESTMORELAND: We can share. We can
3 share this.

4 MS. GERSEN: This is the declaration.

5 (Exhibit 65 was marked for identification.)

6 BY MS. GERSEN:

7 Q. Okay. I'm handing you Exhibit 65.

8 A. Okay.

9 Q. Do you recognize --

10 A. Yes, ma'am.

11 Q. -- what that is? Tell us what it is for
12 the record.

13 A. It appears to be my declaration.

14 Q. And it's -- does it appear to be an
15 accurate --

16 A. Yes. Yes, ma'am.

17 Q. So I'm wondering if we could turn to
18 page 11 of your declaration.

19 A. Uh-huh.

20 Q. And could you, for the record, read out
21 paragraph 74?

22 A. "On August 9, 2018, I met with Plaintiff
23 privately because of a phone call I received from the
24 Director of Defender Services, Cait Clarke.
25 Ms. Cait Clarke advised me that Nancy Dunham, the

1 Director of Fair Employment Practices, had reached
2 out to her expressing concerns about interactions
3 with the first assistant and Plaintiff as alleged by
4 Plaintiff. Ms. Clarke suggested that I should meet
5 with Plaintiff, which I promptly did that day."

6 Q. Okay. Does that suggest that you heard
7 from Cait Clarke before the August 9th meeting with
8 the plaintiff?

9 A. I'm sorry, could you repeat that question
10 again.

11 Q. Did you hear from Cait Clarke before the
12 August 9th meeting with Caryn?

13 A. Yes.

14 Q. The phone call that you received from the
15 Director of Defender Services, Cait Clarke, what do
16 you recall about that phone call?

17 A. Exactly what I say in this paragraph. And
18 just to clarify, I don't mention it here, the phone
19 call occurred the day before.

20 Q. The day before.

21 A. On August 8th.

22 Q. On August 8th.

23 A. Yes, ma'am. Yes, ma'am.

24 Q. So Ms. Clark just reached out to you
25 unexpectedly?

1 A. Yes, ma'am.

2 Q. And prior to that, you didn't know that
3 Caryn had gone to FEPS with her report?

4 A. Correct.

5 Q. So is it fair to say that you became aware
6 for the first time of Caryn's complaint to FEPS on
7 August 8th?

8 A. Yes, yes.

9 Q. First time?

10 A. Yes.

11 Q. Okay. And it says here that you -- she
12 suggested you should meet with Plaintiff, and then
13 you did. That's why you were meeting with her on
14 August 9th?

15 A. Correct, correct.

16 Q. So on August 9th, you met with her. Did
17 you say in this meeting to her that -- did you tell
18 Caryn in this meeting that you were unhappy about her
19 having contacted FEPS?

20 A. No, I told her -- excuse me. I thought
21 that she -- I felt that she didn't go to me first, to
22 speak to me, and she kind of went around me and is
23 sharing with the AO, Administrative Office of the
24 Courts, and I just felt like she went, you know,
25 behind my back, sort of.

1 And so I asked her, "Why did you do that?
2 Why didn't you come to me and talk to me? I would
3 have tried to resolve all these issues before you go
4 into the AO." That was the extent of my
5 conversation.

6 Q. Did she tell you in that meeting that she
7 had been trying to resolve the situation informally?

8 A. She might have, yes, yes, yes.

9 Q. Did you think she'd done something wrong by
10 reporting the conduct to the AO's FEPS?

11 A. No, she was doing nothing wrong, and
12 obviously, you know, she has a perfect right to call
13 the AO and ask them questions. I just thought it was
14 unfair to me that she didn't speak to me first and
15 articulate to me, you know, all of the concerns so
16 that I could try to resolve them. You know, and I
17 thought they were resolved on July 5th.

18 So I was taken aback, that too. You know,
19 we had the meeting July 5th. The way we left the
20 meeting, she was happy.

21 I said, "Are you sure you're okay with
22 this; are you comfortable going forward?"

23 She said, "I'm comfortable going forward."

24 And nothing, it was uneventful, up until I
25 get a call from the AO saying, "Oh, Tony, I was just

1 contacted by Nancy Dunham telling me about this issue
2 between JP and Caryn."

3 Q. So what else do you recall about that
4 meeting with Caryn on August 9th?

5 A. You know, there was so much that was said,
6 to be honest, but I just, you know, I want to
7 summarize what the demands were and what I was
8 willing to do, and I do that in this paragraph.

9 Q. You do that in paragraph 75; is that right?

10 A. Yes, ma'am.

11 Q. Okay. So at this point, when you met with
12 her, was your understanding that she had not filed an
13 EDR report of wrongful conduct?

14 A. Correct. Correct, yeah, yeah.

15 Q. And at that point, you had not filed an EDR
16 report of wrongful conduct?

17 A. Correct.

18 Q. Yes. So between the time that you met with
19 her on July 5th and August 9th, was your
20 understanding that her issues had been resolved?

21 A. Yes.

22 Q. Because of the things you'd already done?

23 A. Yes, ma'am. And there was no -- again, it
24 was quiet.

25 Q. So at any point prior to August 9th, did

1 you understand that she believed she was being
2 sexually harassed?

3 A. No, I had concerns. Other than that, no,
4 no.

5 Q. Right, but you had concerns about --

6 A. Which is why I had the meeting and brought
7 them together.

8 Q. Uh-huh, right. But after that you thought
9 it had stopped and was -- you thought it had stopped?

10 MS. SPAINHOUR: Objection to form.

11 MS. WESTMORELAND: Objection to form.

12 BY MS. GERSEN:

13 Q. You thought the conduct had stopped?

14 A. I thought it was resolved.

15 Q. Meaning?

16 A. I thought it was over. I mean, it was,
17 from that meeting to this call, it was uneventful. I
18 heard nothing. She had a new mentor. You know, I
19 changed the support, the trial support in who she
20 reported to in that nature. And it was -- there was
21 nothing happening, so I'm assuming we were okay.

22 Q. So in the meeting, were you telling her
23 that she should not have gone to the AO to report
24 sexual harassment?

25 A. No, I never saw said that.

1 Q. Did you feel mad that she reported to the
2 AO?

3 A. Yeah, I was upset, and I say it, I told her
4 because I thought she was going behind my back and I
5 would have liked for her to come to me first.

6 Q. And you didn't think that she had come to
7 you first on July 2nd?

8 A. Correct. Because we were just talking
9 about, I thought it was a breakdown in communication.
10 I did have concerns, but my concerns were allayed
11 during that meeting, and after that meeting, she felt
12 comfortable going forward. And it was just a
13 breakdown in communication, and I thought it was
14 resolved.

15 Q. And at the July 5th meeting, you also
16 believed that the concern was resolved?

17 A. Correct.

18 Q. So did you say to her in that meeting, "I
19 feel like I'm being blamed for a situation that as
20 soon as I was put on notice, I'm taking control over
21 it"?

22 A. At which meeting? You're talking about
23 August 9th, yes.

24 Q. Sorry, yes. August 9th, yes. What did you
25 mean by that?

1 A. Well, I felt that -- the tone of the
2 meeting, you know, when you're not there, the tone of
3 the meeting, I felt she was pointing the finger at
4 me; so I started getting defensive.

5 And I said, "Well, I feel like I'm getting
6 blamed for this," and that was my response. That's
7 what I was saying, that's the only thing I was
8 saying.

9 Q. Why would she point the finger at you?

10 A. Well, I don't know. I felt that, though.
11 I felt she was pointing the finger at me at that
12 moment.

13 Q. At that moment, she felt that you were --
14 she felt that you were at fault, you thought that she
15 thought you were at fault?

16 A. Correct.

17 Q. And did you think she had said that to the
18 AO?

19 A. No, no, I just sensed by the way she was
20 talking and making demands. Just the tenor of the
21 conversation. She had never talked to me like that,
22 she was very forceful, she was making demands, You
23 are going to do this; We are going to do this; and I
24 want this, and I want that. Just the tone. It
25 appeared to me almost accusatory towards me.

1 And, you know, I got defensive and said,
2 "Well, I feel like I'm being blamed for this when I'm
3 trying to resolve it. I'm trying to accommodate it."

4 Q. Yeah. And what could she -- what did you
5 understand her to be blaming you for?

6 A. Everything. The way the whole thing was
7 handled. I just felt like she was blaming me for how
8 the whole thing was handled. How I handled it.

9 Q. And what do you mean by the whole thing?

10 A. Well, the July 5th, the July 1st -- the
11 July 2nd meeting, yeah.

12 Q. The July 2nd meeting?

13 A. Yeah, yeah.

14 Q. And so the quote is, "I feel like I am
15 being blamed for a situation that as soon as I'm
16 being put on notice, I'm taking control over it." So
17 in the August 8th meeting, you indicated that you had
18 previously been put on notice; is that right?

19 MS. SPAINHOUR: Objection to the form.

20 BY MS. GERSEN:

21 Q. When you used the words, "I was put on
22 notice," is that fair to say?

23 A. I was put on notice that she told me that
24 JP got angry at her and that JP was waiting for her
25 in the lobby and she felt uncomfortable, creeped out

1 sexual harassment to you, correct?

2 A. She reported some conduct to me that, in my
3 opinion, was not sexual harassment based on the facts
4 that she provided to me.

5 Q. So she provided facts to you that you did
6 not consider sexual harassment; is that right?

7 A. Correct.

8 Q. And -- but you still felt that it was
9 obligatory for you to report it to Mr. Ishida?

10 A. Because she alleges in black and white that
11 she was being sexually harassed.

12 Q. In what way was Heather Beam your designee
13 in the investigation?

14 A. I have no -- I really don't know.

15 Q. Were you confused by what that meant?

16 A. I was a little confused about some aspects
17 of this, because this was my first time going through
18 and under this EDR plan; so yeah.

19 Q. Did you think that it was a conflict of
20 interest for you to be appointing the investigator?

21 A. There might be an allegation. I didn't
22 think so, because, in essence, I was not selecting
23 the investigator. The investigator was being
24 selected by the circuit executive, and then, for me,
25 it was just a technicality that I would be appointing

1 her, but I still had a distance from her.

2 Q. Did you think that Heather was acting as
3 your designee?

4 A. Pursuant to this e-mail, yes. You know,
5 what that means, I have no idea.

6 Q. Was she doing the investigation under your
7 supervision?

8 A. No.

9 Q. Was she reporting to you?

10 A. No.

11 MS. GERSEN: All right. Can we have
12 Tab 29, please.

13 BY MS. GERSEN:

14 Q. Okay. I'm handing you Exhibit 69, and could
15 you let me know if you recognize that.

16 MS. GERSEN: I'm sorry, this is Exhibit 3
17 in a previous exhibit. Can we fix this?

18 (Exhibit 3 was marked for identification.)

19 A. Okay.

20 Q. Do you have it?

21 A. Yes, ma'am.

22 Q. So this -- have you seen this e-mail
23 before?

24 A. No, this is the first time I've ever seen
25 this.

1 That, in fact, happened. That, in fact,
2 Heather Beam told me.

3 Q. Okay. So when it says, "Ms. Dunham
4 allegedly instructed one of her staff to tell Tony
5 Martinez," is that literally correct, that one of her
6 staff told you?

7 A. Not me, I'm telling you it was Heather Beam.

8 Q. Okay. So this is not quite correct. One
9 of her -- get one of her staff -- instructed one of
10 her staff to tell Tony Martinez, that's not literally
11 correct?

12 A. It was Ms. Dunham -- I don't know, it might
13 have been Ms. Dunham allegedly instructed one of her
14 staff to tell Heather Beam to tell Tony Martinez, but
15 they never called me. This information came to me
16 through Heather Beam, that Heather Beam was told us.

17 Q. So you had spoken to Cait Clarke on the
18 8th?

19 A. The 8th of August.

20 Q. On the 8th. But you did not, in fact,
21 speak with one of Nancy Dunham's staff --

22 A. Correct.

23 Q. -- on August 15th?

24 A. Correct.

25 Q. Okay. So you -- is James Ishida recounting

1 to the chief judge a conversation he had with you in
2 which you informed him of these events?

3 A. Correct. From Heather Beam, yeah.

4 Q. Got it. So Heather Beam told you, and then
5 you told Mr. Ishida?

6 A. Correct. Because, like I indicated before,
7 I called James Ishida and said, "What's going on
8 here? I filed an EDR under the EDR for the Fourth
9 Circuit Court of Appeals under the circuit. Now the
10 AO is ordering me that I have to do all these demands
11 before Caryn goes to the press."

12 Q. Right. So what day did you file the EDR?

13 A. If you look at the e-mail, I think it's
14 right here.

15 Q. Okay.

16 A. There it is. Yeah, it's the back of the
17 next page. "Thank you very much for forwarding the
18 below e-mail from Caryn Devins."

19 Q. Yes.

20 A. And what's the date on that? I'm sorry.
21 The 14th, so it was the 14th. All that happened
22 really close to one another.

23 Q. Right. So on -- does it look to you like
24 on August 14th, at 10:56 a.m., you wrote, "James,
25 here it is. Thanks"?

1 A. Yes, ma'am.

2 Q. And did you mean by "here it is,"
3 Caryn Strickland's report of sexual harassment?

4 A. Yes, ma'am, the e-mail.

5 Q. The e-mail.

6 A. I literally forwarded the e-mail, the
7 entire e-mail.

8 Q. So then, later that day, after James got
9 that e-mail, he wrote back to you thanking you; is
10 that right?

11 A. Yes. Yes, ma'am.

12 Q. And then the next day, August 15th, is when
13 he's writing to the chief judge about a conversation
14 that you and he had; is that right?

15 A. Correct. As a result of Heather Beam.
16 After Heather Beam was appointed, yes.

17 Q. Do you remember when you spoke with
18 Heather Beam about the events that are referenced
19 here?

20 A. It had to be either late August 14th or
21 during the day August 15th.

22 Q. Okay. It had to be one of those two?

23 A. One of those two.

24 Q. One of those two. Because is it fair to
25 say that the EDR process had not started before

1 August 14th?

2 A. Before, correct, it started when I
3 forwarded the e-mail.

4 Q. Right. Which would have been 10:56 a.m. on
5 August 14th?

6 A. Yes, ma'am.

7 Q. So somewhere in that day and a half, are
8 you recalling that you must have had the
9 conversation?

10 A. Yes, ma'am. Yes, ma'am.

11 Q. And then you called Mr. Ishida; is that
12 right?

13 A. Yes, ma'am.

14 Q. Okay.

15 MS. WESTMORELAND: Should we take a quick
16 break?

17 THE VIDEOGRAPHER: We're off the video
18 record.

19 (Recess from 3:45 p.m. to 3:53 p.m.)

20 THE VIDEOGRAPHER: We're back on the
21 record.

22 BY MS. GERSEN:

23 Q. So continuing with just a few more
24 questions about this e-mail, this Exhibit 3. I
25 wanted to -- so when he says, when James Ishida says,

1 "I wanted to alert you to a disturbing incident," did
2 you agree with -- I know you didn't see this e-mail
3 before, but when you read this, do you agree that
4 there was a disturbing incident that he's describing?

5 A. Yes, ma'am.

6 Q. And what was disturbing about it?

7 A. So we had started, I had started an EDR
8 process, and now the AO, or representatives from the
9 AO, are indicating to Heather Beam that she cannot
10 investigate the case, that Tony needs to -- whatever
11 she's asking for, give her whatever she's asking for;
12 telework, relocation, before Ms. Devins hires an
13 attorney and goes to the press. I mean, that's
14 disturbing, after here, I'm seeking to resolve these
15 matters and have it investigated through the process
16 that was given to me.

17 And the other thing that's disturbing, and
18 you wouldn't know this, but as I indicated before, as
19 a defender, I am appointed by the chief judge for the
20 Fourth Circuit Court of Appeals. My boss is the
21 chief judge for the Fourth Circuit Court of Appeals.
22 My boss is not the AO, my boss is not the director of
23 the AO, my boss is technically not the district
24 judges, my boss is the chief judge of the Fourth
25 Circuit Court of Appeals.

1 So for the AO to be directing me to hear
2 whatever demands of an employee, not necessarily is
3 Caryn's fault, I'm saying any employee, whatever they
4 ask, telework, and this is an order? Who are you to
5 give me this order? You don't have any authority over
6 a defender. So that -- it was very disturbing.

7 Q. You hadn't talked with Nancy Dunham or her
8 staff directly yourself?

9 A. Never, never.

10 Q. So what you knew about the disturbing
11 incident was from Heather?

12 A. Heather Beam, correct.

13 Q. And not anyone else?

14 A. Correct.

15 Q. And would you expect Nancy and Heather to
16 corroborate this story?

17 A. Well, Heather would have to; I mean, I took
18 notes. This is exactly what she told me. My
19 understanding was that after this, there was a
20 meeting. There's some e-mails to that effect. James
21 met with the deputy director of the AO, I believe
22 Nancy Dunham was there present, and someone else.
23 And they had a meeting, a powwow, and when it was all
24 said and done, the AO apologized.

25 They said Heather Beam misinterpreted or

1 had agreed to take the position with the Fourth
2 Circuit, with a judge. I wasn't involved.

3 Q. You weren't involved.

4 A. I had no idea. I was not involved in that.
5 That's something I don't -- I don't have even the
6 authority to approve anything in mediation when it
7 comes to that. Now, if it has to do with the office,
8 like duty station, that's different. In fact, that's
9 a different animal.

10 Q. So if the resolution involved something
11 with your office --

12 A. Correct.

13 Q. -- then would you have been the person who
14 would have to look at that?

15 A. Yes, ma'am.

16 Q. And would you have had the final authority
17 to approve such a resolution involving your office?

18 A. Yes, ma'am. Yes, ma'am.

19 Q. So anything, like any personnel action
20 involving promotion or pay, or I'm trying to think
21 of other examples that you deal with in terms of
22 decision-making as a manager, all of those decisions
23 really were in your control as the defender?

24 A. That's my understanding. Yes, ma'am.

25 Q. So in terms of mediation, it couldn't

1 really have happened without your approval; is that
2 right?

3 A. Mediation could not happen --

4 Q. Mediation resolution.

5 A. If the resolution involves my office.

6 Q. If it involves your office.

7 A. Correct.

8 Q. So the Fourth Circuit is a totally
9 different thing because that does not involve your
10 office?

11 A. Correct.

12 Q. Okay. So Caryn left for the Fourth Circuit
13 as a result of whatever was happening in mediation.
14 Is that your understanding?

15 A. I have no idea.

16 Q. And if she were to have wanted to stay in
17 her job rather than leave and, say, wanted to be an
18 AFPD with a certain level of pay, would that have had
19 to be your decision?

20 MS. SPAINHOUR: Objection to form.

21 MS. WESTMORELAND: Objection to form.

22 BY MS. GERSEN:

23 Q. Go ahead.

24 A. Can you rephrase that question, I'm trying
25 to --

1 Q. Yeah. If she wanted to just stay at the
2 FDO, in, say, the appellate unit, would that have
3 been ultimately your decision?

4 A. Yes.

5 Q. So could anything happen in mediation
6 involving your office without -- you know what, this
7 is asked and answered. I don't need to ask about it
8 again. Sorry.

9 And did you have an understanding of what
10 would happen if Caryn filed the Chapter X complaint,
11 a formal complaint under Chapter X, that went to a
12 final hearing?

13 A. I don't know.

14 Q. You don't know?

15 A. I don't know.

16 Q. So are you familiar with Chapter X?

17 A. I've read Chapter X.

18 Q. Uh-huh?

19 A. I know there is certain rights and certain
20 stages, like counseling, mediation, and a final
21 hearing.

22 Q. Right. Right. Right.

23 A. Since I've never gone myself, I don't have
24 personal experience with Chapter X.

25 Q. Right. So in -- after mediation comes

1 A. You know, maybe when I was working, to
2 receive more workplace training, which was a
3 recommendation.

4 Q. And you had said earlier that you had
5 received very little training?

6 A. Right. Some training, correct.

7 Q. So did you testify earlier that you were
8 not told that you yourself were being investigated?

9 A. Repeat that question again.

10 Q. Did you testify earlier that you, yourself,
11 were not told that you were being investigated?

12 A. No one told me, no.

13 Q. Do you think it would be part of a fair
14 process that a person who is being investigated
15 should be told?

16 A. Yes.

17 Q. And did you have any concept -- did you
18 have any idea during the EDR process that the
19 investigator was looking into your conduct?

20 A. Not really.

21 Q. Should the EDR investigation have given you
22 notice?

23 A. I think, you know, I knew I was aware of
24 allegations being made by Ms. Strickland.

25 Q. Yeah.

1 A. I knew that we had filed under Chapter 19.

2 Q. Chapter IX.

3 A. Nine. And that she was making allegations
4 also. To me, it was all part and parcel of the whole
5 process. I'm not -- it wasn't like I had not filed,
6 or nothing was filed originally, and then, all of a
7 sudden, now she's alleging something of misconduct
8 done about me. It wasn't -- to me, it was all part
9 and parcel of the whole process.

10 Q. So you -- I just want to be really -- just
11 make sure I'm clear. You were never told that there
12 were allegations against you by Ms. Strickland?

13 A. By who?

14 Q. By Caryn Strickland?

15 A. No. Officially, under the plan, no.

16 Q. So did you feel confused when you received
17 this counseling letter as to why you were receiving
18 it?

19 A. I -- the letter specifies that, "On behalf
20 of Chief Circuit Judge Gregory, I write to inform you
21 that you are being counseled for your actions arising
22 from the Report of Wrongful Conduct submitted by
23 Caryn Strickland on September 10th, 2018."

24 So that was clear to me.

25 Q. It was clear what that sentence you read

1 meant; is that right?

2 A. Right. And I understood it was arising
3 from the allegations that she made, so --

4 Q. So when you read that, did you -- did you
5 read that to mean that she had made allegations
6 against you?

7 A. Correct. Yeah.

8 Q. So when was the first time you realized
9 that Caryn had made allegations against you under the
10 Chapter IX provisions of the EDR plan?

11 A. Probably when I received this letter. Now,
12 that is not to say that, you know, there were copies
13 of things I received during the EDR process, and I
14 might have received a copy of the allegations, but I
15 really became aware when this letter came out.

16 Q. You said there might be copies of things
17 you received?

18 A. Yeah, they might have sent me a copy of
19 something, or I was CC'd, or --

20 Q. But whatever you received didn't cause you
21 to think that you were being investigated under the
22 EDR plan?

23 A. Correct.

24 Q. Was EDR -- was the EDR investigator -- let
25 me just scratch that.

1 So at the end of the EDR Chapter IX process,
2 when it concluded, did you discipline JP Davis?

3 A. Yes. I'm sorry, I didn't discipline him, I
4 did a counseling -- verbal counseling. I did not
5 discipline him.

6 Q. Okay. Can you tell me the difference
7 between counseling and discipline?

8 A. I don't believe counseling is discipline.
9 Discipline is when you require, like, a performance
10 plan or some type of disciplinary. I consider
11 counseling as nondisciplinary. It's just a
12 counseling.

13 Q. Right. And in what circumstance would JP
14 have been disciplined, as opposed to counseled, in
15 this matter?

16 MS. WESTMORELAND: Objection to form.

17 A. In this matter? Well, you know, like the
18 way he was handling -- it related to the way he was
19 handling, to give you a scenario, the way he was
20 handling contacting James Ishida. I thought that was
21 inappropriate, and if he were to do it again, he was
22 going to -- there was some disciplinary action I was
23 going to take.

24 Q. So he wasn't disciplined for that conduct?

25 A. He never did it again.

1 Q. So he wasn't disciplined for the times that
2 he did contact him?

3 A. Correct.

4 Q. And your understanding was that JP was not
5 disciplined for -- as a result of Caryn's EDR
6 complaint -- or EDR report?

7 A. I told you, I didn't discipline him, I
8 counseled him.

9 Q. Right. I'm asking you: Your understanding
10 is he was not disciplined?

11 A. He was not disciplined, correct.

12 Q. And did you decide how to counsel him?

13 A. Yes, we reviewed the e-mails in question
14 that -- you know, what were considered inappropriate,
15 and we went over them and as to why they might have
16 been considered inappropriate and he could have done
17 better, and I think there were four e-mails, I think
18 there were.

19 Q. Are these e-mails that he sent to Caryn?

20 A. Correct.

21 Q. And he was counseled on how he could have
22 done better --

23 A. Correct.

24 Q. -- in writing those e-mails?

25 A. Correct.

1 Q. So did you decide whether to discipline or
2 counsel JP?

3 A. I decided.

4 Q. You decided. And how did you decide?

5 A. It was discretionary on my part.

6 Q. It was discretionary on your part whether
7 to choose discipline or counsel JP Davis?

8 A. Correct.

9 Q. And what informed your decision about that?

10 A. The gravity of -- what I considered the
11 gravity of the conduct. And in this case, they were
12 just e-mails, and my review of the e-mails, for me,
13 did not require any disciplinary action.

14 Q. Right. And what do you mean in this case
15 they were just e-mails?

16 A. I'm saying the counseling was in reference
17 to the four e-mails.

18 Q. Right.

19 A. I didn't do any other counseling on any
20 other subject.

21 Q. And why did you think those e-mails
22 warranted counseling rather than discipline?

23 A. Because of the gravity of it. It wasn't as
24 serious as any other action that he might have taken
25 or conduct.

1 Q. Right. So when you -- when you first heard
2 about the facts that gave rise to these complaints,
3 you didn't think it was sexual harassment; is that
4 right?

5 A. Correct.

6 Q. And did you think it was sexual harassment
7 at the end of the process?

8 A. No, because there was a finding of no
9 sexual harassment by the investigator.

10 Q. Okay. So based on the investigator's
11 report, you made a decision about how to handle
12 JP Davis' --

13 A. Yes.

14 Q. -- counseling?

15 A. Yes.

16 Q. So you were the subject of a counseling
17 letter; is that right?

18 A. Yes, ma'am.

19 Q. And does being the subject of this
20 counseling letter from Mr. Ishida in the matter of
21 Caryn Devins affect your views of the merits of her
22 claims?

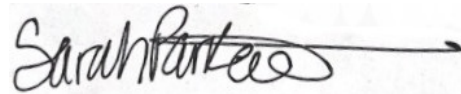
23 A. The mere receiving of the counseling that I
24 received, yes.

25 Q. How so?

1 CERTIFICATE OF OATH

2 I, the undersigned authority, certify that
3 Anthony Martinez personally appeared before me
4 on April 28, 2023, and was duly sworn.

5 Witness my hand and seal May 11, 2023.

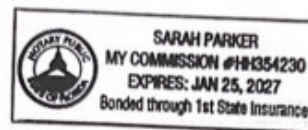
6
7
8 

9
10
11 Sarah Parker

12 Notary Public - State of Florida

13 My Commission No. 1747421

14 Expires 1/25/27



REPORTER'S CERTIFICATE

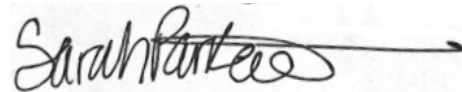
STATE OF FLORIDA:

COUNTY OF HILLSBOROUGH:

I, Sarah Parker, certify that I was authorized to and did stenographically report the deposition of Anthony Martinez; that a review of the transcript was requested; and that the transcript is a true and complete record of my stenographic notes.

I further certify that I am not a relative, employee, attorney or counsel of any of the parties, nor am I a relative or employee of any of the parties' attorney or counsel connected with the action, nor am I financially interested in the action.

DATED May 11, 2023.

A handwritten signature in black ink that reads "Sarah Parker" followed by a long, horizontal, sweeping flourish.

Sarah Parker

